

LIEUTENANT GOVERNOR CRUZ BUSTAMANTE'S
COMMISSION FOR ONE CALIFORNIA

RACIAL PROFILING:
A DIALOGUE TOWARD SOLUTIONS

UNIVERSITY OF CALIFORNIA
SAN DIEGO, CALIFORNIA

THURSDAY, MAY 25, 2000

10:15 A.M.

Recorded by:
Lt. Governor's Office

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSION MEMBERS PRESENT

The Honorable Cruz M. Bustamante, Chair

Sunil "Sunny" Aghi, represented by Deepak Krishan

David Bejarano, represented by Rulette Armstead

Rabbi Brad Bloom

Maha ElGenaidi

Lori Fujimoto

Carole Hayashino

Herma Hill Kay

Royal F. Morales

Dr. Cecil L. "Chip" Murray, represented by
Reverend Leonard Jackson

Gregory Nava

The Honorable Cruz Reynoso

Morris L. "Vern" Roberts

Leland T. Saito

Jill R. Tregor, represented by Diane Chin

Eleni Tsakopoulos-Kounalakis

ALSO PRESENT

Dr. Robert KLITGAARD, RAND Graduate School

Chief Gary Creason, Southwestern College

Officer Robert Burks

Thomas Saenz, MALDEF

ALSO PRESENT

Dr. Geraldine Washington, NAACP

Michelle Alexander, ACLU

Assistant Chief Rulette Armstead, San Diego
Police Department

Ronald Davis, NOBLE and Oakland Police
Department

Commissioner D.O. "Spike" Helmick, CHP

Sunny Lee, Simon Wiesenthal Center

Chief Arturo Venegas, Jr., Sacramento
Police Department

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1 P R O C E E D I N G S

2 10:15 a.m.

3 LIEUTENANT GOVERNOR BUSTAMANTE: The rest of
the

4 Commissioners and the audience are probably still
5 out looking at this beautiful campus, enjoying
6 this great weather, and will probably join us very
7 very soon.

8 I was told that in Calexico yesterday it
9 was 105. That's where I'm going this afternoon.
10 And in Fresno it was about 100, so I'm really glad
11 to be here.

12 I'd like to begin by welcoming the
13 Commissioners and speakers and all the community
14 leaders who are here today. I commend the
15 Commission for exercising tremendous leadership on
16 the issue of racial profiling by calling this
17 hearing.

18 It was the Commission who about six
19 weeks ago got together and believed that this
20 issue was of paramount importance at this
21 particular time. And we didn't realize the extent
22 to which the issue would grow and become a major
23 major issue, not only in California, as it already
24 was, but also in the Legislature as it's going
25 through the process of establishing some type of

1 legislation.

2 This issue is, I guess. an
3 understatement to call it contentious. This issue
4 divides advocates who will even agree on the fact
5 that racial profiling is a problem, as well as law
6 enforcement groups who use a variety of different
7 techniques.

8 But this Commission was formed to build
9 bridges across communities; to explore divisive
10 issues; and to find solutions and best practices.

11 Today we will review how law enforcement
12 officers learn to profile suspects, and how the
13 process, or individual officers or departments,
14 turn that into racial profiling.

15 We're going to hear about the effects
16 racial profiling has on communities.

17 (Address in Spanish language.)

18 LIEUTENANT GOVERNOR BUSTAMANTE: We're going to
19 discuss possible policy solutions today. Some of
20 you, no doubt, have already formed an opinion on
21 which solution should be advanced. I ask that you
22 enter this discussion with open minds.

23 The discussion today has been developed
24 in a way that will bring divergent views together
25 for the purpose of being able to express all

1 viewpoints in order that we might all learn more
2 about each others' side, so that we can, in fact,
3 learn to work together and come with reasonable
4 solutions to the kinds of real problems that exist
5 in our communities.

6 We're here to shed light on what
7 different communities, state agencies, and
8 nonprofits can do to tackle this issue.

9 We are here today to seek solutions.
10 Through today's dialogue, I am confident that the
11 ideas will grow.

12 We will begin with Dr. Robert KLITGAARD,
13 who is the Dean of the RAND Graduate School in
14 Santa Monica. He has been a professor at
15 Harvard's Kennedy School of Government, Yale
16 School of Management and the University, and he
17 recently co-authored the book, Corrupt Cities: A
18 Practical Guide to Cure and Prevention.

19 Dr. KLITGAARD will give us an overview of
20 racial profiling in a broad historical context.

21 Dr. KLITGAARD.

22 (Applause.)

23 DR. KLITGAARD: (Address in Spanish.)

24 It's a great pleasure to be here this
25 morning. You know, professors like me do weird

1 things when they get out and try to study problems
2 such as racial profiling. But sometimes the weird
3 things we do can be useful.

4 So I want to share this morning the
5 story of a professor named John Lamberth, who did
6 a study I think you'll find interesting. And as I
7 tell you the story I'm going to ask you some
8 questions. And the people who get closest to the
9 right answer get a free copy of Corrupt Cities.

10 (Laughter.)

11 DR. KLITGAARD: Now, Professor Lamberth
12 decided to hang out on the I-95 highway in
13 Maryland for a period of 42 hours. He drove along
14 at 55 miles an hour, when it was 55, or 65 miles
15 an hour when it was 65, and counted the number of
16 cars that seemed to be committing traffic
17 infractions by either not signaling when they
18 changed lanes or by going too fast.

19 My first question is what percentage of
20 the drivers on the road do you think were
21 committing traffic infractions? Let's begin with
22 Commissioners, any guesses?

23 SPEAKER: Eighty-five.

24 DR. KLITGAARD: Eighty-five, 90, 95, 65?
25 Any in the audience want to take a crack at this?

1 Yes?

2 SPEAKER: I'd say all of them.

3 DR. KLITGAARD: All of them. Yes? I
4 think you've been on the road down from L.A. to
5 San Diego, which I was on this morning, going at
6 73 and barely keeping up with the truck lane.

7 Well, the answer was 93 percent. Here's
8 one for you.

9 (Applause.)

10 DR. KLITGAARD: The good professor also
11 decided to take note of the ethnic group to which
12 various drivers belonged. He claimed that 97
13 percent of the time you could tell the ethnic
14 group. I find that a little hard to believe,
15 don't you? It's a little hard -- it shows a
16 little racial profiling on his part, perhaps,
17 don't you think?

18 But he did find that a certain
19 percentage of the drivers was, he called, black.
20 Now, what guess -- what's your percentage of the
21 drivers in the 42-hour period on the I-95 in
22 Maryland, what's your guess at the percentage that
23 were black?

24 Seventy percent, 85, 40, 25, 10. Well,
25 the answer is 17. So, I think between 25 and 10,

1 we'll give it to the man who had 10, that's a
2 little closer than 25. Okay.

3 SPEAKER: Well, I got 10.

4 DR. KLITGAARD: You got 10. We'll give
5 it to him --

6 (Laughter.)

7 DR. KLITGAARD: That's right, you had the
8 10. We'll pass one around here.

9 Now, he also took note of the number of
10 folks who were driving -- the 93 percent who were
11 driving too fast, changing lanes without
12 signaling. What percentage of them were black?

13 Five, 17, 15, 45, anybody in the
14 audience? Ten. Well, the answer's 18. Okay,
15 pass this one down to this man who said 17.

16 So, now, then the professor decided,
17 well, let me take a look at the folks who were
18 stopped for traffic violations on this road over
19 an 18-month period and searched. Stopped and
20 searched.

21 To be stopped they had to be committing
22 a violation, right. That's the first order of
23 condition. Now, what would be your guess about
24 the percentage of folks who were searched who were
25 African-American, or in this case black because

1 many of the blacks were not Africa-Americans, they
2 were Africans. So, what's your guess on the
3 number, the percentage there?

4 Would you guess -- 95, 85, 50, 70, 96,
5 90, yes, 75. Well, the answer is 73. So what did
6 you say?

7 SPEAKER: Seventy --

8 DR. KLITGAARD: You said 70, okay. Ron,
9 there's one for you here. Okay. When you come up
10 you can bag the book.

11 So, here's an example of a case where
12 prima facie we have evidence that 18 percent of
13 the folks who were driving illegally were blacks,
14 but 73 percent of those who were searched were
15 blacks. And this is the kind of statistic that
16 gets people to start using words like racial
17 profiling.

18 What I'd like to do this morning in the
19 remaining 15 minutes that I have at my disposal is
20 to review the idea what is racial profiling and
21 what isn't it. What's it like, and what isn't it
22 like.

23 And then get our attention on solutions,
24 possible solutions. And I'll be a little bit
25 critical of some of the proposed solutions that

1 have been tossed out by our politicians. And I'll
2 try to suggest some ways that we might
3 constructively utilize the great expertise and
4 wisdom in this room to come up with some practical
5 ideas. So let me proceed with that.

6 First of all, what is racial profiling,
7 what is it like, what isn't it like. Let's define
8 racial profiling as the use of race as a variable
9 in an equation that's trying to predict something
10 that matters.

11 Equation variable. What we mean is
12 you're using a piece of information, which is a
13 person's ethnicity or race, along with other
14 information to make a decision.

15 What's it like. Well, let me give you
16 an example where we've made it illegal to do
17 racial profiling. Have you heard of red-lining?
18 Red-lining in the mortgage business. Or there's
19 also red-lining in the insurance business.

20 Where, for many years -- this goes back
21 historically, there are many good studies of this
22 in the '20s and '30s, the term comes from because
23 insurance companies would literally, on the map,
24 would draw with a red crayon around certain parts
25 of the city which they were not going to give

1 mortgages, or they were not going to get
2 insurance.

3 So the term red-lining was used because
4 it was so gross it was yes or no for entire blocks
5 of people. And, of course, the racial element of
6 this was very strong. Because these communities
7 that were deemed unacceptable were often places
8 where minority groups disproportionately lived.

9 The practice was banned and is now
10 illegal. However, the practice is still -- there
11 are still people who believe, and I'm one of them,
12 that mortgage officers, insurance agents and so
13 forth, will indeed use racial information
14 informally in deciding the riskiness of
15 applicants.

16 Gender information. We know that women
17 live longer than men. Insurance companies are not
18 allowed to use that in their equation to predict
19 what the insurance premium should be. Even though
20 it's statistically valid, they're not allowed to
21 use it.

22 So that's a case where we have
23 profiling, gender or racial profiling, that is
24 illegal even when it could be shown that, in fact,
25 it has some actuarial value.

1 And here's a second case of racial
2 profiling, the use of race as one factor in
3 deciding who should be admitted to a university.
4 Most people would not say we should have race as
5 the only factor. Some people would say we should
6 have race as no factor, shouldn't be a part of the
7 consideration. One should only look at other
8 attributes.

9 Some of us, like me, would say race
10 should be one of the factors because I'm trying to
11 construct a class that's going to educate each
12 other. And if we don't have a class that
13 represents different points of view, different
14 backgrounds, we are losing an opportunity to
15 educate ourselves.

16 My students want that, my professors
17 want that, and I, a an educator, want that. So
18 when people tell me I can't use race as a factor,
19 one of the factors, not the only factor, no
20 quotas, not the only factor, but one of the
21 factors, I resist that.

22 Now, notice that looks like, logically
23 looks like the actuarial use of race in the
24 insurance problem. Because what I'm saying is I
25 want to use it as one of the variables to predict

1 something, who's going to get into my school,
2 who's going to do well -- who's going to count as
3 getting in the RAND Graduate School, okay.

4 I think it's a benevolent use of racial
5 profiling, or use, I should say, of race as one of
6 the factors of information. Others disagree with
7 me. I know that's a controversial judgment. And
8 in California one finds themselves more and more
9 alone in standing up for use of race in admissions
10 policy.

11 What isn't it, what isn't racial
12 profiling. Racial profiling is not the fact that
13 there are racial differences in outcomes.

14 For example, if it turns out that
15 certain groups have more low birth weight babies.
16 That's not the result of racial -- necessarily the
17 result of racial profiling. It could be, but not
18 necessarily.

19 So the fact that we see disparate
20 outcomes, the fact that we see, for example, that
21 25 percent of violent crimes in America are
22 committed by people who are defined as black, as
23 opposed to 12 percent of their population, does
24 not, prima facie, imply that there has been racial
25 profiling in the crime-commission process, does

1 not necessarily imply. There may be something
2 going on there.

3 But let's separate the question of do we
4 use race as a factor in making a decision about
5 who to pull over, who to admit, who to give
6 insurance to, who to stop at the border. Do we
7 use it there? As opposed to the questions what
8 are the outcomes and are there differences in the
9 outcomes.

10 Now why is it bad, why is racial
11 profiling bad. One reason it can be bad is
12 because we have the wrong equation. Admissions
13 officers at leading universities often use their
14 own judgments about who should be admitted.

15 I used to be Faculty Chairman of
16 Admissions at the Kennedy School of Government at
17 Harvard when I was a professor there. And I
18 studied how the admissions process worked at
19 Harvard College and at the Medical School and so
20 forth.

21 And each professor, each member of the
22 admissions committee thought she or he was a great
23 judge of who was going to be successful, a great
24 determiner of what was diversity. And they had
25 their own little equations, untrained by

1 statistics. You want to look at the results of
2 who actually -- no, no, no, I can tell.

3 In your company you may have people like
4 that, who are the interviewers. Oh, yeah, this
5 guy's going to be great. Well, how do you know
6 that? Well, I can tell. Right.

7 So we have that kind of sort of
8 untrained use. Much of the criticism of racial
9 profiling in say the Customs Bureau has been that
10 here's a junior customs officer who's out there
11 making a judgment about who's a risky individual
12 with no data except her or his prejudices.

13 So, one idea is that we don't mind
14 racial profiling as long as the statistics are
15 correct. We wouldn't mind if 18 percent of the
16 folks stopped were blacks, if blacks are 1 percent
17 more likely to commit traffic crimes, if that
18 happens to be true.

19 That's one view. I'm not saying I hold
20 that view, that's one view. So it could be
21 because the profiling equation is statistically
22 inefficient.

23 Another view is forget about whether
24 it's efficient or not, it's perfectly valid, but
25 it creates costs that we, in our society, are

1 unwilling to pay.

2 Let me give you an example from Bolivia
3 where I worked once trying to clean up the customs
4 bureau, as a foreign adviser for the minister of
5 finance.

6 The customs officials were paid about
7 \$30 a month. When someone would come in with
8 goods that could be duty-able, the customs
9 official would say, gee, that looks like you have
10 to pay a duty for that. And the guy would say,
11 here's \$20. Fine, go right through.

12 And this would happen with trucks at the
13 border. It would happen with people at the
14 border. So, working with the customs official we
15 invented an experiment which would give the
16 customs officials a share of additional revenues
17 that were raised through correct enforcement of
18 customs rules.

19 So they would get 5 percent of the
20 additional amount and that would lead to a
21 significant increase in their salary.

22 We knew it wouldn't eliminate corruption
23 because if somebody offers them \$10,000 to bring
24 in something they may still accept it, but, in
25 fact, customs revenues soared over the next year.

1 And we believe, from all accounts, that corruption
2 went down.

3 But can you predict a side effect of
4 this policy? If we didn't measure the harassment
5 of people at the border, and count that, they
6 would open each suitcase, wouldn't they? Because
7 there would be some slight probability of getting
8 more contraband or more things to duty, but it
9 would slow the whole process down; it would ruin
10 tourism in Bolivia; it would create huge costs for
11 the merchants who were bringing in their goods.

12 So you could see there would be a non-
13 optimal cost created to the rest of the folks,
14 many of whom are honest, from this elaborate
15 search process. And I think you see where I'm
16 going now.

17 If the search and seizure process in
18 police work or customs or at the airport is
19 burdensome and creates social costs and stigma,
20 then we might say, look, in this case the costs
21 are just too high.

22 If it's as simple as at the border
23 asking you, please show your ID, and then you
24 drive on you way, we might say, well, that's not
25 too big a cost.

1 And, in fact, courts in California have
2 judged that when the customs bureau stops 1
3 percent of the people at the border, and the
4 burden is small, they just get stopped and asked a
5 few questions, step out of the car and so forth,
6 not handcuffed, thrown down on the ground, taken
7 to jail, abused by, you know, discourtesy.

8 It turns out 20 percent of the time they
9 stop people of this 1 percent, there have been a
10 drug problem or illegal immigrant problem. So
11 it's a batting average of one in five. Four out
12 of five were not. So four out of five were
13 false/positives of the 1 percent.

14 And the court said, that's okay, that's
15 a pretty good batting average. We think the
16 social benefits of that 20 percent you identified
17 outweighs the social costs of the 80 percent, even
18 though the profiling equation turned out to target
19 Hispanics, or Latinos.

20 They don't like that, but they said the
21 cost/benefit calculation -- now, you may have a
22 different view of that. You may say that's not
23 worth it, 20 percent isn't enough. If it was 80
24 percent you might change your mind.

25 I know if it went down from 20 to 1

1 percent I would change my mind. I don't know what
2 I feel about 20 percent.

3 But what I'm trying to get at is there's
4 a calculation of benefits and costs, so we might
5 say, even if the equation is right on, we may say
6 it creates too many social costs.

7 Now, the story of racial profiling we've
8 been reading in the ACLU's excellent work, and in
9 a wide ranging of case studies we've had in the
10 literature on this subject demonstrates the
11 enormous social costs that people feel in
12 communities because of racial profiling in police
13 work.

14 And that's a big question for us to
15 decide, is how can we weigh those kinds of -- how
16 can we document those costs and weigh them against
17 the kinds of situations where even so the benefits
18 in terms of reduced crime would be so great that
19 we would say it's worth it.

20 Can we identify those situations when
21 it's worth it, when it isn't worth it, and can we
22 reason that through.

23 Now, a final way to think about why
24 don't we like it, is just because we say it's
25 morally wrong. We say we don't want to use race

1 in any way in any equation in public life.

2 So the person who's systematically
3 opposed to affirmative action should be, by this
4 view, systematically opposed to racial profiling
5 in police work. Isn't it interesting how those
6 don't match up, though.

7 Seems to me that many times the people
8 who are most opposed to racial profiling in police
9 work seem to be most interested in affirmative
10 action. And those who are most opposed to
11 affirmative action in the State of California are
12 most defensive of the practices of policemen using
13 racial categories.

14 Now, we've talked about what it is and
15 what it isn't. We've talked about thinking about
16 when it's wrong why it's wrong. I've separated
17 the benefit/cost idea from the moral idea.

18 And now I want to take us to the
19 question of what to do about it. Now one idea
20 about what to do about things we don't like is to
21 forbid them. So if we don't like discrimination,
22 we pass a law against it. If we don't like racial
23 profiling, we say, here's a regulation that says
24 you can't do it, as we've done in red-lining. We,
25 in fact, have a law about red-lining.

1 Now, in police work it turns out it's
2 pretty hard to know what effect that would have,
3 because we don't understand very well what the
4 incentives are for the policemen, themselves.

5 Let me go back to that Maryland case.
6 This is interesting. The professor -- I told you
7 these professors are weird guys, they study things
8 in strange ways.

9 The professor went ahead and studied
10 which policemen, which troopers stopped how many
11 people. And he created sort of a top ten list.
12 It turned out 13 troopers along that road over a
13 year and a half made 85 percent of the stops.

14 There were 823 searches. One trooper
15 made 150 of those 825. Okay, 13 of them had at
16 least 10.

17 Now, that one guy, the 150, obviously he
18 had an idea of police work that said searches are
19 really a good way to get crimes done. By the way,
20 75 percent of the stops that he made were at
21 blacks.

22 Another guy made only 12 stops, but
23 every single one was a black. But two other
24 troopers who made a lot of stops had percentages
25 of blacks that were 22 percent, and 32 percent.

1 Still above the 18 percent, but much different.

2 So if you look at this police force you
3 have to make conclusions. Conclusion one: The
4 practice that suspect, namely surveillance and in
5 this case searching, is not uniformly distributed
6 across all officers. They don't have a rule of
7 the game about this. This is freestyle judgment
8 by these policemen.

9 Second, the use of the racial
10 information on who they stop was clearly varying
11 across policemen.

12 So therefore, it seems to me that in
13 that case passing a rule saying, by the way you
14 can't do this, would be a very difficult thing to
15 make stick.

16 If you think about does banning -- is
17 banning, by itself, sufficient. My answer to that
18 is no. It's not sufficient. We have to do more.

19 So, what's the second step. A second
20 step is widely touted right now, is to collect
21 data. To collect data about the race and other
22 attributes of people being stopped by the police.

23 Ohio law enforcement authorities
24 estimate this would lead to 135,000 hours of extra
25 work in a year, costing \$4.5 million extra, just

1 to record that information.

2 Now, you probably know that Sheriff
3 Baca -- Sheriff Baca isn't here, is he, today? I
4 wish he was here to tell us about this. Has an
5 experiment, a pilot project now where you put a
6 camera on the police officer, \$150,000 pilot
7 project. Which would be a quick way to find out
8 what's going on with every single stop.

9 There is a police department in northern
10 California that has a \$5,500 item, it's a camera
11 on the car, a police car. Which every time the
12 lights go on like this, the camera starts up.

13 Sheriff Baca's proposal, if it were
14 generalized in his department, costs \$4.3 million
15 a year, everybody with a camera. And that would
16 be a way of gathering data.

17 But my question is data for what?
18 Suppose we had all the data in the world about the
19 practices, as our professor did in Maryland. What
20 would we do with it.

21 And here is where I hope to learn a lot
22 from you today. And let me suggest some of the
23 things I think we should be focusing on.

24 First of all, what are the incentives
25 inside the police department? Why do they do

1 this? Okay.

2 Now, there are some bad incentives. I
3 feel like it; I don't like people of a certain
4 race; or I have these stereotypes which are ill-
5 informed, that we have to forbid in our society.
6 We don't allow stereotyping in our society.

7 It could be that there's good police
8 work here, that certain kinds of people such as
9 young men, compared to young women, are, in fact,
10 much more prone to violent crimes, 95 percent to 5
11 percent.

12 So if you don't use the fact that it's a
13 young male in who you do surveillance on, you
14 know, you're being not a very good policeman or
15 policewoman.

16 So there is this question of what are
17 the incentives, how does it actually work, how do
18 they train people? Is this an individual thing,
19 as it clearly is in the Maryland department? Or
20 is this a formalized thing? What's the equation
21 that's being used here?

22 What are the rewards that is driving
23 this behavior? Could we change those rewards
24 through the use of information, and financial and
25 other incentives so that this kind of work would

1 be less?

2 For example, going back to my customs
3 bureau example. If you said you're going to share
4 in the rewards of additional customs revenue we
5 generate, but we're also keeping track of
6 complaints by citizens. We're also keeping track
7 of how long it takes to get a suitcase through
8 customs or a truck through customs, and your
9 reward system will be based on all of that.

10 In the case of racial profiling imagine
11 for a moment we had God as our research assistant
12 and we could know any numbers we want to know that
13 could change the system. What would we want to
14 know? Would we want to know, for example, how
15 many people are false/positives and what's the
16 cost that they feel when they're pulled over and
17 they feel it's simply because of their race, or
18 their age, or whatever it might be.

19 About 79 percent of American blacks
20 between 18 and 44 believe that they have been
21 pulled over at least once just for their race,
22 compared to 6 percent of whites. It's a stunning
23 number.

24 What does the number look like? Could
25 we easily create some information about these

1 kinds of complaints and what the cost is? Is it
2 quickly just being stopped, and you're on your
3 way? That's a cost. But it's another thing when
4 you're handcuffed, taken to jail, and some of
5 these horror stories we've been reading about.

6 What do we know about that? Could we
7 change the behavior of police forces so that we
8 have localized information on things like crime
9 rates, crimes reported, arrest rates, searches
10 that result in arrest, and searches that don't
11 result in arrest, and complaints? Would that be a
12 system that would enable us to create some better
13 incentives? I know Ron is thinking about this in
14 Oakland.

15 So, my ultimate suggestion is the
16 following. And the reason in fact I was invited
17 here today is because of this new book of mine
18 called Corrupt Cities, and I see I have a few left
19 over, so afterwards if you'd like a copy, first
20 come, first served.

21 The point of my book is to say that the
22 standard approach to the way we think about
23 corruption is mistaken. We take it as a moral
24 issue. It is a moral issue. We take it as a
25 question of just have better rule, let's have

1 another rule that forbids bribery, as if that, by
2 itself, would be enough.

3 If we could just change people's
4 behavior and get out the bad eggs, okay, that's
5 true, too. But we know from many countries,
6 including our own, that simply having rules on the
7 books about corruption, or declaring that we
8 should have a higher moral standard in our
9 government, or saying let's get rid of the few
10 guys we've caught, we know that's not enough.

11 And so it is with the question of
12 profiling. We have to take this problem not as a
13 problem of bad individuals, of racist policemen,
14 in this case, individual rednecks types that we
15 stereotype from our tv shows, but as a problem of
16 systems that we can try to reform.

17 First, we have to understand them. But
18 we have to take it as a problem of systems. It is
19 a problem we need more data, perhaps. But as in
20 the case of corruption now the World Bank is
21 running surveys all over the world about people's
22 perception of corruption. As if simply by knowing
23 how much people perceive it exists, somehow that
24 leads to a remedy. I don't think it does. I
25 think data, by themselves, without a purpose are

1 not very helpful here.

2 Corruption is also one of those problems
3 where people immediately jump to we need a new
4 law, a new regulation, a new moral code. And I
5 think we need new incentives and new sources of
6 information about what's actually going on, to
7 understand from the point of view of the community
8 and the police department how these systems are
9 working and not working.

10 It's taken to be an issue, as we've seen
11 in so much political rhetoric, where what we need
12 is a fiery speech denouncing this as corrosive, to
13 use the words of President Clinton, and I think
14 when we have a tough issue is when we need to be
15 less fiery and more cool and more systematic.

16 And that's why I'm so happy to be here
17 today, thank you, Lt. Governor, for inviting me
18 today, I'm so happy to be here as part of this
19 distinguished group to learn and think
20 systematically about this very difficult issue.

21 Thank you very much.

22 (Applause.)

23 LIEUTENANT GOVERNOR BUSTAMANTE: Thank you, Dr.
24 KLITGAARD.

25 We're hopeful that, as you finished your

1 statement, we're hopeful to be able to do the same
2 kinds of things.

3 When we began looking into the issue of
4 racial profiling one of the very first questions
5 that I asked was how are officers trained. How
6 are they taught to use discretion and to make
7 choices.

8 Our next speak is Chief Gary Creason,
9 who will help us try to understand this process.
10 Chief Creason has been involved in law enforcement
11 since 1973. He has served as the Director of the
12 Southwestern College Police Academy since 1995,
13 and also serves as the Chief of Police for the
14 Academy.

15 Chief Creason, why don't you come on up.

16 (Applause.)

17 CHIEF CREASON: Thank you, Lt. Governor.
18 Good morning, ladies and gentlemen of the
19 Commission. I am honored to be here this morning.

20 I'd like to begin this morning by giving
21 you a brief overview of the California Commission
22 on Peace Officer Standards and Training. And then
23 on to the historical development of what is
24 commonly referred to as the regular basic course,
25 or a police academy.

1 There are many specific subjects of
2 training in each of the 39 certified law
3 enforcement academies in our great state. And
4 again, there are 39 academies throughout
5 California.

6 Approximately 50 percent of those
7 academies are law enforcement agency academies,
8 and the other 50 percent are offered through
9 community colleges.

10 The California Commission on Peace
11 Officer Standards and Training, which is commonly
12 referred to as the POST Commission, or POST, if
13 you will, is a group that is specified in Penal
14 Code section 13500.

15 The Commission consists of 14 members,
16 13 of whom are appointed by the Governor, and with
17 the advice and consent of the California State
18 Senate. The 14th member is ex-officio in nature,
19 and is the attorney general.

20 The Commission is the organizational
21 policy-setting body and meets quarterly to
22 establish standards and policies and adopt
23 regulations regarding peace officer training in
24 the state.

25 In carrying out its responsibilities,

1 the Commission cooperates and secures cooperation
2 from the local law enforcement agencies and other
3 systems of public instruction, such as community
4 colleges.

5 The basic law enforcement requirements
6 are specified by approximately 400 educational
7 objectives. To successfully complete this course
8 of instruction each student must master a certain
9 percentage of the educational objectives in each
10 of 42 learning domains.

11 An educational objective describes an
12 instructional outcome and serves as a blueprint
13 for developing standards for the completion of the
14 course.

15 In July of 1993 the Commission adopted
16 training specifications as its method of
17 specifying the regular basic course curriculum.
18 And the California Office of Administrative Law
19 granted approval which became effective January
20 14, 1994.

21 For each learning domain, and once again
22 there are 42 domains, the training specification
23 describes instructional goals, topics and minimum
24 hourly requirements.

25 Where a learning domain includes

1 learning activity or examination, these
2 requirements are also described in the training
3 specifications.

4 The POST student workbook, and I have
5 brought an example of that with me today, is an
6 instructional system, if you will, which consists
7 of a self-paced student workbook and corresponding
8 instructor materials.

9 These materials are based on each of the
10 42 basic course learning domains. These
11 instructor materials provide guidance and
12 suggestions on how to use the materials, such as
13 the content, the workbook learning activities,
14 examinations, quizzes, etc.

15 Also, each instructor materials guide
16 includes information regarding specific targets
17 for student learning. These include key
18 vocabulary, a chapter synopsis, activities or
19 exercises, discussion points relative to that
20 particular subject, and a self-assessment quiz
21 that the student takes.

22 Each instructor materials guide also
23 contains a complete copy of the student workbook
24 for that particular learning domain. And I might
25 add that an instructor material book, which this

1 is, is a mirror image of the workbook that each
2 student studies by, as well.

3 The student workbook contains materials
4 approved by the POST Commission and is an aid to
5 instructors in meeting the minimum training
6 standards.

7 Now, let's move along to the self-
8 assessment quiz contained in each domain. The
9 self-assessment quiz is included at the beginning
10 of each student workbook and allows students to
11 check their knowledge and understanding of a
12 content from a specific learning domain prior to
13 the instruction being given.

14 The quizzes are intended to be used in a
15 number of ways, and these are as a pretest to
16 measure their own knowledge before reviewing the
17 materials. As an introduction to the key topic
18 points and depth of information that will be
19 covered in the workbook. And as a review tool to
20 check the student's understanding after they have
21 completed the workbook.

22 And let me give you an example of a quiz
23 question, which is specifically directed at
24 cultural diversity:

25 During a routine traffic stop a peace

1 officer makes contact with a driver who
2 speaks little English. If the office has no
3 familiarity with the driver's native
4 language, which of the following strategies
5 should be attempted:

6 And the choices of answers are: A)
7 speaking more quietly to avoid intimidation.
8 B) pausing frequently. C) using minimal
9 gestures since they may be misinterpreted.
10 D) all of the above. And E) none of the
11 above.

12 Well, of course the correct answer is D)
13 all of the above.

14 Next I'd like to address the area of the
15 instruction that I personally feel is extremely
16 important in any profession, and that is ethics
17 and ethical behavior.

18 This topic is addressed in learning
19 domain number one, and is usually presented as one
20 of the first classes in any basic law enforcement
21 academy in this state.

22 Also included in this domain is the
23 history of law enforcement, as well as
24 professionalism.

25 This domain covers the law enforcement

1 code of ethics, and I have a copy that was passed
2 out to the Commissioners.

3 This code of ethics outlines a code of
4 professional conduct and represents what peace
5 officers' responsibilities are.

6 Most instructors present verbal word
7 picture dilemmas that the academy students will
8 work through in small groups. They'll formulate
9 their decisions, along with the reasons for their
10 positions, on the dilemma; and it will be
11 discussed in a large group forum.

12 An example of an ethical dilemma would
13 be:

14 Two police officers on uniform patrol stop
15 for lunch at the same neighborhood restaurant
16 each and every day. After the officers
17 purchase lunch several times, the restaurant
18 owner begins telling them there is no charge,
19 and thanking them for making their
20 neighborhood safe. If the owner is making
21 this offer with no expectation of favor are
22 the officers committing an unethical or
23 inappropriate action in accepting these
24 meals? Answer yes or answer no.

25 Well, of course the students' answers on

1 this question vary widely initially. And there's
2 a great deal of discussion on both of the answers.

3 So if you'd please refer to the handout
4 that I presented to you this morning, to paragraph
5 number three. The code of ethics specifically
6 states that a peace officer should never accept a
7 gratuity.

8 Also the code of professional conduct,
9 which is another standard that California peace
10 officers are taught to follow, in section 8.1 it
11 states, and I quote, "Peace officers shall refuse
12 to offer, give or receive gifts, favors or
13 gratuities, either large or small, which can be
14 reasonably interpreted as capable of influencing
15 official acts or judgments." End quote.

16 The acceptance of gratuities by peace
17 officers or other unethical behavior may, and
18 often does, compromise the integrity of the
19 officer, their agency and the law enforcement
20 profession.

21 So as you can see by these examples,
22 each of the 39 basic course presenters teaches
23 that peace officers have the ability to exercise
24 discretionary decision-making and make choices in
25 their everyday duties.

1 And that brings me to the next topic of
2 presentation, which is discretionary decision-
3 making.

4 Throughout a peace officer's career they
5 are expected to make independent decisions and
6 choices regarding each and every contact they have
7 with the public. They're encouraged to enforce
8 the spirit of the law rather than the letter of
9 the law.

10 For example, on a traffic stop with a
11 citizen who fails to make a complete stop at a
12 posted stop sign, the officer has the discretion
13 of issuing a citation or a verbal warning. If the
14 violation nearly caused a traffic collision, then
15 perhaps a citation is in order. If, however,
16 there was no collision, then a warning may
17 suffice. And, again, the peace officer makes that
18 decision without consulting a supervisor or any
19 other authority within their agency. They're on
20 their own when they're in the field.

21 And certainly all of us, I think, would
22 agree that the citizen who receives a verbal
23 warning rather than a citation drives away much
24 relieved and happy that they don't have to pay a
25 fine. And hopefully it is an educational

1 experience for them.

2 In addition, if the officer is courteous
3 and professional the contact is much more positive
4 and brings credit to the officer, his agency and
5 the law enforcement profession.

6 In general, that all ties together and
7 it's titled community oriented policing. The
8 citizen hopefully has more respect for law
9 enforcement. And let's face it, word of mouth
10 advertising can be a wonderful thing for law
11 enforcement or any other profession.

12 Once again, peace officers are expected
13 to make these choices and decisions based upon the
14 circumstances in each incident they encounter.

15 Next, I'd like to touch upon recognizing
16 diversity and what is taught in our basic courses
17 in the State of California.

18 Each of the 39 academies teaches that
19 peace officers must recognize and respect the
20 complexities of cultural diversity in order to
21 develop the skills necessary for identifying and
22 responding to California's changing communities.

23 The word culture is a broadly used term
24 that refers to a complex group of shared
25 characteristics, including beliefs, values, ways

1 of thinking, behaviors, customs or traditions.

2 Further, academy students are taught
3 that cultural diversity means the representation
4 or existence of individuals with distinctly
5 different group affiliations.

6 Also that there is no one set of common
7 elements or characteristics that can be applied to
8 all cultures. That cultures, just as the people
9 who make up the groupings, are always in a state
10 of change and development.

11 We also teach that understanding
12 cultural influences on individuals can help peace
13 officers recognize and influence patterns of
14 behavior and build more effective relationships
15 within the community and within law enforcement.

16 In addition, we teach that California
17 has never been homogenous society, it has always
18 been made up of groups of peoples representing
19 many different cultures, races and ethnic groups.

20 Finally, we teach that California's
21 constantly changing cultural diversity is placing
22 new demands on law enforcement. And that many law
23 enforcement agencies are becoming more culturally
24 diverse in and of themselves, and in their ranks,
25 and are reflecting the communities they serve.

1 To accomplish the goal of driving home
2 the points of cultural diversity, most instructors
3 in academies will have the students participate in
4 learning activities.

5 An example of a question that students
6 are asked to answer that really drives home the
7 point is:

8 Describe your own culture. How many
9 generations within your family have been born
10 in the United States? How many were born in
11 California? What do others need to know
12 about your cultural heritage to work more
13 effectively with you?

14 The next question asked would be:

15 To list cultural groups other than those
16 representing specific ethnicity that you
17 personally identify with.

18 Using only the population of each
19 individual class, who are you in this class?
20 And who do you identify with? List the
21 ethnicities that are represented in your
22 class. How many of your classmates were born
23 in California, or born in another state, or
24 another country? List the number of
25 languages that are spoken. What is the

1 gender and racial makeup of the class?

2 Then they're asked to describe a recent
3 experience that they have personally encountered
4 where, as an individual they felt different when
5 they were out with a group. And what exactly made
6 them feel that way. How long did the feeling
7 last? And what did they do to feel like a part of
8 the group?

9 And the last thing they're asked to do
10 is assume that they have been assigned to serve in
11 a particular area of a city with a very large, for
12 instance, IndoChinese population. What resources
13 would they call upon to identify and learn about
14 the specific groups within that jurisdiction. The
15 people that they're going to be working with on a
16 daily basis.

17 And each student has had the opportunity
18 to write down -- I'm sorry, once they've had the
19 opportunity to write down their responses, they're
20 asked to share their answers. They're not forced
21 to share their answers, they're asked to share
22 their answers.

23 When students share this information it
24 drives home the point that we're all from
25 different cultures, ethnicities, groups or

1 affiliations, and we are all, in fact, human
2 beings and deserve to be treated as such.

3 And the last topic I'd like to touch
4 upon is profiling. None of the academies, to my
5 knowledge, teaches or advocates profiling. And
6 the POST Commission has not instituted curriculum
7 into the basic course regarding profiling.

8 We deal with criminal behavior, no
9 matter what a person's skin color, how they may
10 appear. It's behavior that we are addressing.

11 So, in conclusion, ladies and gentlemen,
12 as you can see, the basic law enforcement training
13 in this state is quite in depth and covers a
14 multitude of subjects.

15 We emphasize ethics, professionalism,
16 honesty and integrity throughout the curriculum.
17 All of these traits, if you will, must be woven
18 into each and every subject, activity and lesson
19 presented in the academies.

20 And now if any of the Commissioners have
21 any questions, I'd be more than happy to answer
22 them.

23 Thank you very much.

24 (Applause.)

25 LIEUTENANT GOVERNOR BUSTAMANTE: I don't think

1 it's going to be that easy, Chief. I think that
2 in the open discussion I think you'll probably
3 find -- you'll be all available here for that
4 discussion, and I'm asking the Commissioners to
5 make sure and write down all of their questions so
6 that we can have a very in-depth round-table
7 discussion on all of these issues.

8 I'm also checking to see if it's okay
9 with the Commission to go ahead, since it looks
10 like we're going to be running late because of the
11 number of items that we're going to cover, if we
12 could just go ahead and work right through lunch
13 and have lunch right here, so that the discussion
14 can really evolve. We have a very short lunch
15 period, anyway. If that's --

16 (End tape 1A.)

17 LIEUTENANT GOVERNOR BUSTAMANTE: Okay, great,
18 great. All right. So, let's make sure that
19 there's good bag lunches and stuff, okay.

20 (Laughter.)

21 LIEUTENANT GOVERNOR BUSTAMANTE: Many people
22 would question whether that training that we've
23 just heard about is properly utilized in the
24 field.

25 Officer Robert Burks has been involved

1 in law enforcement over 20 years. He's a regular
2 speaker in conferences and panels on police
3 conduct, and was recently featured on an CNN
4 special that focused on driving while black.

5 Officer Burks will make a presentation
6 on the realities of what happens in the fields.

7 Officer Burks.

8 (Applause.)

9 OFFICER BURKS: First of all, my name is
10 Robert Burks, and I have to do a little disclaimer
11 because I am a California Highway Patrol Officer
12 with over 20 years of road patrol. Today I'm
13 speaking as a private citizen, and any opinions or
14 views I express here today are my own personal
15 opinions based on my training and experience. I
16 do not represent any department or agency, nor do
17 I claim to represent any department or agency.

18 And with that in mind, first of all I'd
19 like to thank the Lt. Governor for organizing this
20 forum. It's a very very much needed forum for us
21 to talk about the issues of racial profiling and
22 other race-based issues in California.

23 I think that's one of the major problems
24 that we have with race, we don't want to talk
25 about it. And it's something we just have to talk

1 about it.

2 And the reason I think people don't want
3 to really talk about it is we all share some
4 responsibility for what happens with the race-
5 based issues, whether we are actually involved in
6 the types of discriminatory or racial issues, or
7 whether we just ignore them. But certainly we all
8 have a role to play and we all share some of the
9 responsibility.

10 One of the things that I've been
11 noticing is that a lot of people are starting to
12 talk about racial profiling and police conduct,
13 but the thing about it is I see very few officers
14 coming forward to talk about racism and racial
15 profiling.

16 And if we're to get or have some
17 solutions to these issues we're going to have to
18 have officers coming forward and talking about
19 these issues.

20 And one of the reasons they don't come
21 forward and talk about these issues is the
22 department targets them for disciplinary action
23 and other things when they do step forward.

24 But I am a person who is not afraid of
25 anything. I took a sworn oath to defend the

1 Constitution of the State of California against
2 all enemies, foreign and domestic. So, if my
3 chief or my commissioner wants to take me on for
4 talking about these issues, well, let's get it on.

5 (Laughter.)

6 OFFICER BURKS: But, anyway, again one
7 of the things that we need to do is get more law
8 enforcement officers involved in talking about
9 these issues. And one of the ways that we can
10 know how these officers come to their conclusions
11 about how they react to the public is simply by
12 having them talk about it.

13 And one of the things we want to do is
14 have good officers to stand up and root out the
15 bad officers. And when we do that you're going to
16 find that things are going to run much smoother in
17 law enforcement.

18 And I'm going to talk about several
19 things. I'm not used to speaking such a small
20 amount of time, I mean I'm used to talking for
21 hours, so you have to bear with me, I'm going to
22 try to throw a lot of information at you in a
23 short period of time. It doesn't always work, and
24 I know I'm going to miss some information, so just
25 bear with me. I'm trying to pick out, select the

1 good stuff for you, Governor, because I do know
2 you need this stuff.

3 Let me just tell you, one of the reasons
4 I got involved in law enforcement is because I was
5 definitely afraid of police, because I have always
6 known how police officers react to African-
7 American people. And I was definitely afraid of
8 them. So, you know, I am definitely afraid of
9 graveyards, but I would hide in a graveyard to get
10 away from a police officer.

11 Because, again, I saw so many things
12 happen. And I thought one day, this is absolutely
13 crazy, I can't be doing this. What I need to do
14 is become an officer and change what happens in
15 the law enforcement. And that's what I've tried
16 to do, and that's why I've not only tried to go
17 out and provide the best service to the community
18 that I can, but I also wanted to change the
19 perception and the way people like myself see
20 police officers.

21 And in doing so I started back in 1973
22 getting all the training that I could in law
23 enforcement. I started out by participating in a
24 program that they offered in the university that
25 was an extension of the military services called

1 Project Transition, which trained you in an area
2 of civilian employment. And I chose law
3 enforcement. And I learned a lot doing that
4 course.

5 But I also noticed some other things
6 that very very few African-Americans, people of
7 color, were involved in law enforcement. And as I
8 went through the training I started to understand
9 why there was so few people of color involved in
10 law enforcement.

11 One of the things that we have to really
12 understand about law enforcement is there is
13 racism and discrimination in law enforcement. And
14 until we accept those facts, then we're not going
15 to really get to the real meat of the issue.
16 Which means that a lot of the people that you see
17 patrolling your streets and highways have
18 preconceived conceptions about who the criminals
19 are. And their preconceived conceptions are that
20 people of color, and African-Americans
21 specifically, are the people who are the
22 criminals.

23 And one of the things is the Doc also
24 talked about what was the motive behind officers
25 doing the kinds of things that they do. And one

1 of the things is what is the incentive. The
2 incentive is that most good officers want to catch
3 criminals, that's the bottomline. They do want to
4 catch criminals.

5 And the thing about it is their
6 perception is, again, that African-Americans are
7 the criminals. And it kind of came out of -- it's
8 kind of institutionalized, because it came out of
9 the civil rights movement.

10 The African-Americans who were fighting
11 for their civil rights, the police were the people
12 there who were trying to keep them from doing
13 certain things. And the politicians and all those
14 people in control sent the police out to get these
15 black people under control.

16 And as a result the police saw black
17 people as the number one enemy in this country.
18 Bottomline.

19 And, again, all the young guys who
20 wanted to become police officers felt like that if
21 they were going to be good police officers they
22 would have to get these people under control.
23 They would have to arrest as many of these people
24 as they could.

25 And that trend has continued, although

1 it's not so blatant and obvious, but it's now done
2 in a subtle way.

3 And one of the examples that I gave, and
4 I always try to give, of a co-worker who is not
5 really a prejudiced guy, in fact I think he's a
6 nice guy, but his perception is kind of off-
7 center. And what I mean by that is he told me
8 that if he saw a person who looked like me,
9 dressed like me, my height and everything, if that
10 individual was a white person, white male, and he
11 saw him with a weapon he would feel -- the first
12 thing that would pop in his mind is that guy's a
13 law enforcement officer.

14 At the same time, the same guy says that
15 if he saw me, a black man, same height, wearing
16 the same clothes, hair cut the same way, and he
17 saw me with a weapon, the first thing he would
18 think is there's a criminal.

19 So, again, this guy, I mean again, he's
20 a nice guy. He started learning about perceptions
21 and discrimination and racism because he ended up
22 having a grandson who was black. Actually his mom
23 is white and his father's black. So he had a
24 mixed grandson. So he started paying more
25 attention to what his own perceptions were.

1 A lot of these guys, they don't
2 really -- some of them do, and others don't. It's
3 just the way they've been trained. They think
4 that black people are the criminals. And I think
5 that's why you see a higher number of African-
6 Americans being arrested; a higher number of
7 African-Americans being stopped. Because they are
8 presumed to be the likely criminals.

9 How do we change that? Through
10 training, through talking about it, through forums
11 like this, people like you coming to forums,
12 getting together, talking about how we're going to
13 resolve this thing. And then going back and say,
14 hey, this is what we're going to do to change it.

15 Again, road patrol officers receive
16 awards for the number of arrests they make
17 including the number of citations they issue. So,
18 again, having the perception that these people who
19 are African-Americans, who are people of color,
20 are the criminals, naturally they're going to
21 instinctively go after those people.

22 It's not so much that they are trained
23 to go after black people or people of color, it's
24 just that the perception is that these are the
25 criminals, and that's who you go after.

1 Again, you also have some people who are
2 outright prejudice and who do discriminate, who
3 will go after black people, who will go after
4 people of color. So those people are in the mix,
5 too.

6 So when you get those types of people
7 involved in law enforcement you're going to have a
8 disproportionate number of people of color being
9 stopped, you're going to have the racial profiling
10 going on, and other issues that's related with
11 racial biases.

12 One of the clues that you can use to
13 determine, both the citizens and the police
14 agencies, some good indicators would be that there
15 are complaints about discrimination within law
16 enforcement agencies. When you have the actual
17 officers complaining about discrimination and
18 racism, you know that's going to be a clue that
19 there is possibly a problem. Because if they
20 treat the people who work for them, if they
21 discriminate against them, and they're racial and
22 biased toward the people that practically live
23 with them, you can imagine what they're going to
24 do to the people on the street.

25 So don't think that if they're not

1 treating this right, as members of the
2 organization, they're going to treat the civilians
3 right, or the people that they serve.

4 Another thing is when you don't have
5 people of color within the ranks of the law
6 enforcement agencies, you're missing a lot.
7 Because the people who run these agencies are
8 basically majority white; they are white
9 controlled; and white run. And they have the
10 power of punishment and reward.

11 So therefore, the problem we are having
12 is that there are not enough African-American and
13 other people of color involved in law enforcement,
14 so they can act as monitors of what's going on.
15 You have to have people within the department who
16 can occasionally say, hey, there's some problem
17 here. We need to talk about it. Who can give you
18 a different point of view.

19 So, again, we do need to have people of
20 color within the ranks before we can have a good
21 working system.

22 And I'll give you an example. If a
23 person of color came into the office and
24 complained about a white citizen -- excuse me, a
25 black citizen came into a police station and

1 complained about a white officer, if there is
2 nothing in that office except white supervisors
3 and managers, there's a chance that those managers
4 and supervisors will merely say, you know, I know
5 the guys did something wrong, but I have to think,
6 I used to do that, too.

7 But, if a black or a person of color is
8 in that position he will take it a little bit more
9 serious. He can understand a little bit more
10 about racism and how he's being treated.

11 But, again, because you don't have that
12 mixture, you don't have that sensitivity, and you
13 do need that sensitivity. Again, one of the
14 biggest problems is having officers speak out
15 against racism and injustices in these law
16 enforcement agencies. You have to support those
17 people who are doing it. You have to support the
18 people who are standing up.

19 You have to talk about police training.
20 You have to talk about race issues. You got to do
21 it. If it don't happen, then you won't be able to
22 resolve these problems.

23 Now, I kind of lost track of my time,
24 but what I'm going to do is I'm going to stop
25 here. I'm going to give you a chance -- I know at

1 the end of this session we're going to have some
2 questions and answers. There's a lot more
3 information.

4 Well, let me just do this while I'm
5 here. You know, all across the nation they've had
6 a concern about racial profiling and all across
7 the United States they've done things to help or
8 try to change the way law enforcement is dealing
9 with this issue of racial profiling.

10 U.S. Congressman John Conyers in March
11 of this year introduced legislation designed to
12 restore public trust and accountability to law
13 enforcement agencies. And that bill is the Law
14 Enforcement Trust and Integrity Act of 2000.

15 And what you can do is you can call your
16 congressman and your senator and ask them to
17 support this bill. I won't go through all the
18 things that this bill contains, but it contains
19 some very good information that will help
20 alleviate these problems that's starting to
21 develop in law enforcement.

22 Again, they're not new problems. It's
23 just that people now are starting to see what's
24 going on, and it's starting to affect a lot more
25 people than it did in the past, even if you just

1 talk about law suits, where misconduct by law
2 enforcement officers, especially as it relates to
3 beatings and shooting of people.

4 It affects you because you're the ones
5 who are going to pay that bill if these courts
6 find that law enforcement agencies were in the
7 wrong, or if they did something that they
8 shouldn't have done.

9 So, indirectly you're involved. You're
10 going to be involved. You might as well start
11 doing something to change things.

12 Again, I know it's a lot of information
13 I didn't cover, I didn't discuss, but I don't want
14 to take up too much time because I know there's a
15 lot of important people here who want to speak and
16 should speak. And I'm willing to listen and
17 answer any questions.

18 Thank you very much.

19 (Applause.)

20 LIEUTENANT GOVERNOR BUSTAMANTE: Thank you,
21 Officer Burks.

22 Official or unofficial, by design or by
23 default, reasonable people have to agree that
24 racial profiling exists, has had a much heavier
25 burden on communities that are low income, as well

1 as communities of color.

2 This effect is both personal to the
3 individuals and to the communities as a whole. To
4 help us explore these effects we'll hear from Dr.
5 Geraldine Washington, President of the Los Angeles
6 NAACP, and Mr. Thomas Saenz, who is the Los
7 Angeles Regional Counsel for MALDEF.

8 Dr. Washington.

9 (Applause.)

10 LIEUTENANT GOVERNOR BUSTAMANTE: However you'd
11 like to do it. If you'd like to come up one at a
12 time, or both speak from there, it's up to you.
13 However you'd like to do it.

14 DR. WASHINGTON: Thank you very much.
15 As President of the Los Angeles NAACP I am pleased
16 to join in the discussion of such an important
17 matter as the subject today suggests.

18 The practice of racial profiling by some
19 law enforcement officials in determining who is to
20 be pulled over while driving their car in our
21 state is of grave importance to the African-
22 Americans in my community, in my city and in my
23 state. And, indeed, in the nation.

24 And so I thank you, Lt. Governor
25 Bustamante, for inviting me to speak today, and

1 for soliciting the opinion of the NAACP on one of
2 the top priorities and legislative issues for the
3 National NAACP, as well as my local branch. And
4 has been for several years.

5 Racial profiling is a reprehensible
6 practice. This action by law enforcement officers
7 that targets our citizens, including members of my
8 family, my husband, my brother, my son, my uncles,
9 my nephews, my neighbors, my friends, all of the
10 people of color who are subjected to this negative
11 behavior.

12 It's reprehensible because it suggests
13 that simply because of the color of our skin we
14 are criminals, or we exhibit criminal behavior
15 most of the time. This is cruel and criminal
16 behavior on the part of those law enforcement
17 officers who are involved in the violation of our
18 civil rights.

19 The practice of racial profiling or
20 driving while black does occur. I would venture
21 to say that it occurs more often than not. Every
22 day someone is being stopped or pulled over today
23 simply because of the color of his or her skin.

24 And so it occurs in our communities all
25 too often. And the concern and the burden is

1 heavy. We simply must stop this demeaning,
2 prejudicial and racist practice.

3 And the national NAACP joins me in
4 saying that the issue is of paramount importance.
5 And we certainly want to see some solution to the
6 practice.

7 So why is there so much interest and
8 concern since most of this behavior, most of these
9 problems occur in minority communities and among
10 minorities.

11 So the question then is how does racial
12 profiling affect individuals in the minority
13 community. Or to put it another way, what are the
14 effects of racial profiling on individuals within
15 minority communities, and what are the effects on
16 society as a whole.

17 Well, I live in a minority community.
18 And I have my own observations. But let me tell
19 you what the people I asked had to say. And I did
20 survey a number of people. I will give you the
21 top 13 answers.

22 Answer number one: We are stopped for
23 petty, frivolous, minor misdemeanor infractions.
24 Because we are stopped often, this becomes the
25 beginning of the paper trail, especially for our

1 young men.

2 Answer number two: Families are
3 strained when these stops result in fines or jail
4 term time. It is difficult for families to raise
5 money many times, or to raise money for bail. It
6 becomes a family problem. And many times families
7 even are unable to continue to live together, or
8 it breaks up families. It breaks up families when
9 husbands are removed from the home, or when
10 families just simply can barely afford to pay
11 their rent and buy their food, and yet their loved
12 ones need them to secure or raise enough money for
13 them. So it is traumatic on the family.

14 Number three: These unlawful stops are
15 demeaning. They perpetuate the myth that we, as
16 African-Americans, are not law abiding citizens.

17 Number four: We are treated with
18 disrespect. Officers are intimidating and rude.
19 It causes us to feel that we're quite not as good
20 as we should be. It lowers our self respect;
21 makes us feel that we are trapped in a system that
22 does not value us as individuals.

23 Number five: These stops depict our
24 community as one of violent criminals. No matter
25 how much we tell our children that you are a good

1 person, that you are in a good family, that the
2 police, our law enforcement officers are really
3 here to protect and serve, they cannot relate to
4 that when they are treated as criminals or as
5 people who have no respect for the law.

6 Number six: We are humiliated before
7 our families, before our wives, our children and
8 our neighbors. What does this do to an
9 individual's self respect, self concept? Think
10 about it.

11 Number seven: These DWB stops very
12 often result in a misdemeanor which becomes the
13 first strike for mostly African-American men. The
14 process continues until the third strike occurs,
15 and then our loved ones, our neighbors, our
16 relatives are removed from us. Because we know
17 what the three strikes law is, and the effect that
18 it has on our community.

19 Number eight: This one occurred several
20 times during the conversations. Racial profiling
21 is called the new slavery. It is a deliberate
22 effort to have all African-Americans incarcerated
23 or removed from the streets in our communities and
24 in our cities. A strong statement.

25 Number nine: DWB stops create a hostile

1 environment among community inhabitants.

2 Number ten: They breed prejudice and
3 hate against and for law enforcement.

4 Number 11: They undermine the trust and
5 integrity of law enforcement, the courts, the
6 judicial system. They perpetuate mistrust,
7 intolerance and hate among community citizens
8 directed toward law enforcement.

9 Number 12: They diminish the respect
10 that we have as individuals and as communities for
11 the law. The result is no confidence in law and
12 government and in the ability for us to have
13 justice or to receive respectful treatment.

14 Number 13: This one is going on now.
15 This is a serious -- one of the serious outcomes
16 of the conversation that's going on regarding
17 legislative action. It has currently polarized
18 our communities when we begin the discussion of
19 whether or not we can accept all or nothing.
20 Whether or not we will accept the fact that in
21 order to stop this practice that the policemen and
22 the police department are the only ones who can
23 gather the data and who can report correctly what
24 is occurring when individuals stops are made.

25 And then the other side of that is that

1 some people feel that it is better to have
2 something than nothing. It is better to have some
3 way of interacting with law enforcement officers
4 who engage in this behavior, without having to
5 say, "Officer, may I have your name?" or without
6 in-your-face looking-at-your-card, your name, to
7 see who you are.

8 Because it is a fact, according to the
9 people with whom I spoke that when you have the
10 need to ask an officer for his name, where he
11 works, that, in itself, causes or can cause an
12 officer to exhibit negative behavior, or to become
13 very insensitive.

14 And those, even though they start
15 innocently, they can escalate into behavior on the
16 part of the officer, and on the part of the
17 citizen, that could be very serious.

18 And that leads me to the one fear that I
19 have, and that is that the more often you are
20 stopped, the more often you are confronted by the
21 police, or the more often you are engaged in a
22 conversation that has something to do with a
23 violation or a criminal action, or particularly
24 one, the more likely you are -- and I'm kind of
25 letting that sink in -- the more likely you are to

1 become a party to a confrontation with a police
2 officer. Or the more likely you are, if you are
3 in our community, to end up dead, to be shot.

4 It just takes an involuntary movement
5 for someone to get the wrong impression and think
6 that you are making an unwarranted or a physical
7 action against them.

8 And so, in our community, when people
9 are stopped often their lives are endangered much
10 more often because of the more contact you have,
11 then the more likely you are to have such a
12 contact.

13 And for that reason alone we say that
14 racial profiling must stop. Because it does
15 increase the likelihood of tragedies occurring in
16 our neighborhood.

17 And to kind of summarize why racial
18 profiling must cease the very survival of our
19 country depends on it. We must have respect for
20 law and order. We must have confidence and
21 respect for law enforcement officers who are
22 putting their lives on the line every day.

23 We must believe that it is possible for
24 us to have justice and equality. We must believe
25 that when we see an officer, or when we are pulled

1 over, that the officer has a good reason to do
2 that. And it is not because of the color of our
3 skin.

4 If the situation continues to escalate,
5 the problem then becomes one for all of us, for
6 you and you and you, even though you may not be in
7 the group of people who is often stopped. Because
8 what happens when there is no respect for the law?
9 What happens when a large number of people decide
10 that it doesn't really make any difference because
11 I am going to be targeted, or I am targeted just
12 because of the color of my skin?

13 And so our democratic way of life is at
14 stake. It is important for us to realize that if
15 this continues that we can then develop a
16 subculture of people who can and might become
17 guerilla warriors. And all those things are
18 important because we love our country, we love our
19 cities, and we believe that by and large most
20 police officers are, and I'll say most law
21 enforcement officers are really concerned about
22 the criminal element. That they believe and take
23 their oaths seriously.

24 And for the sake of those officers, and
25 for the sake of people in my community, and for

1 the sake of all of you who live across the State
2 of California, it is extremely important that
3 racial profiling cease and that people understand
4 that this is certainly the color of my skin does
5 not determine what kind of treatment that I'm
6 going to get as a single factor.

7 So we are certainly hopeful that out of
8 this conference, or these discussions, we will
9 perhaps come up with some thoughts and some ideas
10 so that we can continue to make America, Los
11 Angeles, safe for all citizens.

12 Thank you.

13 (Applause.)

14 LIEUTENANT GOVERNOR BUSTAMANTE: Thank you, Dr.
15 Washington.

16 Thomas Saenz with the Los Angeles
17 Regional Counsel for MALDEF.

18 MR. SAENZ: Thank you, Mr. Lt. Governor.
19 I'm pleased to be here, as well.

20 It's difficult to prepare remarks about
21 the effects of racial profiling, because I think
22 that to huge portions of our California community,
23 the effects are so obvious and so daily in their
24 impact, I think that that's indicated by Dr.
25 Washington's informal survey, and I think the

1 thoughtful and complete responses that she
2 received from people who experience this kind of
3 activity on a daily basis.

4 But I would like to talk about what I
5 see as one of the most pernicious effects of
6 racial profiling. And I'd like to begin with a
7 story that has nothing whatsoever to do with the
8 police.

9 A few years ago I had the opportunity to
10 work with a task force in the justice system that
11 was studying a particular court system and the
12 possibility of racial/ethnic bias infecting what
13 was going on in that judicial system.

14 And a committee of judges and lawyers
15 was putting together a survey to send out to
16 practitioners in this particular court system to
17 ask them about the possibility of racial or ethnic
18 bias infecting the activities in the courtroom.

19 And in putting together that survey we
20 easily decided to ask about inappropriate remarks
21 related to race, inappropriate remarks related to
22 ethnicity. And there was unanimity also about
23 asking about inappropriate remarks related to
24 language.

25 But when one of us proposed that there

1 be a question about inappropriate remarks related
2 to immigration status the judge who was chairing
3 that committee raised a strong objection.

4 He raised the objection because in his
5 view much of the time immigration status was a
6 relevant, rational, logical concern of the court
7 system. And therefore it was not necessary to ask
8 about whether there were any inappropriate remarks
9 being made about defendants', litigants',
10 attorneys' immigration status.

11 Now, to his credit, after a discussion
12 of about 20 minutes in length, that judge agreed
13 to put the question in the survey.

14 And when the survey came back that
15 question elicited a significant number of
16 responses. Higher, I believe, than any other
17 category except language. That people saw, on a
18 daily basis, inappropriate remarks. Again, these
19 survey respondents were people familiar with the
20 legal system, so they could distinguish
21 inappropriate remarks from appropriate remarks.

22 But the survey respondents saw a
23 significant amount of inappropriate remarks
24 related to immigration status.

25 And I tell you that story because I

1 think that it illustrates, first of all, the
2 reality of racial/ethnic discrimination in 21st
3 century California. Second, because I think that
4 it suggests the most pernicious effect of racial
5 profiling. And finally, because I think it
6 suggests how comprehensive the solution to racial
7 profiling has to be.

8 First of all, I think that it
9 illustrates the reality of racial/ethnic
10 discrimination in 21st century California because
11 people don't discriminate by identifying someone's
12 race and saying, I am going to harm you because of
13 your race.

14 We have learned enough in the last 40
15 years that people mask their discrimination. They
16 mask their discrimination through the use of
17 proxies, whether the proxy is language,
18 immigration status, or the perception that somehow
19 there is a correlation between race or ethnicity
20 and criminality.

21 That is the reality. Racial/ethnic
22 discrimination does not come in the blatant format
23 of 50 years ago. It comes in the form of I will
24 target you because I perceive you to be an
25 unlawful immigrant, a non-English speaker, I

1 perceive you to be a criminal or potential
2 criminal. And I think that reality also suggests
3 the most pernicious effect of racial profiling.

4 The effects of racial profiling are
5 multiple; and I think that Dr. Washington's survey
6 respondents touched on all of them. There are the
7 individual effects of people who are subjected to
8 detentions by police that they would not be
9 subjected to other than because of their race or
10 ethnicity.

11 And what follows from that, individuals
12 subjected to unfair discriminatory prosecutions.
13 And in many cases, convictions. And if the
14 Rampart scandal proves nothing, it at least proves
15 that in some cases they are subjected to much
16 more, including being shot, including being
17 assaulted simply because of a racial profile.

18 But the ripple effects of racial
19 profiling come from the accepted wisdom that
20 Officer Burks and Dr. Washington talked about that
21 is associated with racial profiling.

22 That the disparate impact that we see in
23 detentions and arrests and convictions is not
24 explained by discrimination, but is instead
25 explained by greater rates of criminality in

1 particular races or ethnicities.

2 And as that accepted common wisdom
3 spreads and pervades, it creates the ripple
4 effects of racial profiling. And that, I believe,
5 is the most pernicious aspect of this.

6 It has those effects most immediately in
7 the criminal justice system beyond the law
8 enforcement officers who may be engaging in racial
9 profiling.

10 We have recently seen a wave of studies,
11 including one from a leadership conference on
12 civil rights, that demonstrate discriminatory
13 effects throughout the criminal justice system.
14 Not just at the point of who is detained; not just
15 at the point of who is arrested; but it plays out
16 throughout the system.

17 There are discriminatory effects in
18 prosecutors exercising their discretion about who
19 to charge. There are discriminatory effects in
20 the way that judges and juries evaluate guilt or
21 innocence. There are discriminatory effects in
22 how judges choose to sentence particular
23 defendants.

24 And that all, I believe, stems, in large
25 part, from this accepted idea, often unstated,

1 often not conscious, in decision-makers in the
2 criminal justice system that somehow criminality
3 correlates with the race, with particular races or
4 ethnicities.

5 But it goes beyond the criminal justice
6 system in again ways that the previous speakers
7 have identified. Because that common wisdom that
8 criminality is related to particular races or
9 ethnicities then gets picked up by the media, for
10 example. By the news media in how they present
11 activities to the community; by the entertainment
12 media in how they reflect and mirror society.

13 And when it is picked up by the media it
14 is then transmitted to the community. And, again,
15 in ways identified by the previous speakers, its
16 pernicious effects become even more ingrained.

17 Minority children perceive these images,
18 accept this common wisdom, internalize it. And it
19 can impact self image and aspirations of entire
20 communities.

21 And that is why the most pernicious
22 effect, in my view, of racial profiling is not
23 racial profiling in its individual impacts, it's
24 rather profiling of a race or races. And
25 including in that profile the idea, accepted, that

1 criminality is a part of the profile of particular
2 races.

3 That particular racial groups are more
4 predisposed to be involved in criminal activity.
5 Often unspoken, often subconscious, but that is
6 what comes from a system that permits
7 discriminatory effects in detentions, in arrests,
8 and in the other aspects of the criminal justice
9 system, and does nothing to end them.

10 And, finally, as I indicated, I think
11 that recognizing that as the most pernicious
12 effect of racial profiling suggests exactly how
13 comprehensive the solution must be.

14 Training is important, but training
15 cannot, by itself, root out these accepted common
16 wisdoms about races and criminality.

17 Individual investigations of specific
18 individual arrests or detentions cannot root out a
19 common wisdom about criminality and particular
20 races for a number of reasons. Because of the
21 internalization that I talked about previously, as
22 well as other factors that many of you are aware
23 of.

24 Many of the people who are victimized by
25 racial profiling will not come forward regardless

1 of how much they are encouraged to do so;
2 regardless of how easy it is made to raise a
3 complaint.

4 They will not come forward because they
5 do not believe there will be a just resolution;
6 because they do not trust that they will not be
7 targeted because of the step that they took.

8 But beyond that, even among those who
9 actually take the step to challenge a particular
10 detention or arrest, in investigating individual
11 cases this accepted common wisdom can become an
12 excuse where individual arrests or detentions of
13 African-Americans or Latinos are explained away
14 through the use of rational proxies.

15 I didn't target this individual because
16 of their race or ethnicity, I targeted them
17 because they looked like an undocumented
18 immigrant. I targeted them because they fit the
19 drug courier profile. I targeted that youth
20 because he fit the gang member profile for this
21 community.

22 And in individual cases those
23 explanation are more likely to be accepted and
24 used to excuse action in that particular arrest or
25 detention.

1 Therefore, those individual
2 investigations, no matter how much they are
3 encouraged, no matter how much they are monitored,
4 cannot suffice to root out that pernicious effect
5 of the common wisdom that criminality is related
6 to particular races and ethnicities.

7 In order to do that you have --

8 (End tape 1B.)

9 MR. SAENZ: -- pervasive solution. A
10 pervasive solution means data collection, data
11 evaluation on an aggregate level. The problem and
12 its effects is aggregate because of the ripple
13 that I just described. To address that aggregate
14 problem we have to have an aggregate solution that
15 involves looking at discriminatory effects across
16 the entire field of arrests and detentions, not
17 merely individual instances.

18 I look forward to our discussion.

19 (Applause.)

20 LIEUTENANT GOVERNOR BUSTAMANTE: Our next
21 speaker is a presenter on identifying and solving
22 the problems of racial profiling, Michelle
23 Alexander, Director of the Racial Justice Project
24 at the ACLU.

25 As indicated in the program, John Crew,

1 the National Coordinator of the ACLU Campaign
2 Against Racial Profiling, was originally scheduled
3 to speak, but was unable to make it. He was in
4 Washington. And Ms. Alexander has graciously
5 stepped in to present in his place.

6 The ACLU Campaign is a comprehensive
7 effort to combat racial profiling through
8 legislation, public education and training
9 reforms. Ms. Alexander is going to speak
10 specifically about the importance of data
11 collection in combatting racial profiling.

12 In fact, in today's Sacramento Bee, the
13 Sacramento Police Department has announced that
14 they will be undertaking a one-year study on
15 exactly who gets stopped. And the Police Chief of
16 the Sacramento Department will be here a little
17 bit later to speak specifically on that and other
18 issues.

19 Michelle, please come forward.

20 (Applause.)

21 MS. ALEXANDER: Well, there's nothing
22 like being a substitute speaker and speaking right
23 before lunch when everyone's stomachs are
24 grumbling.

25 (Laughter.)

1 MS. ALEXANDER: I'd like to take this
2 opportunity to talk a little bit about the deal
3 that was reached between Governor Davis and
4 Senator Murray, because that alternative bill, in
5 many ways, illustrates the need for data
6 collection, and the ways in which data collection
7 is absolutely essential to any meaningful solution
8 to address the problem of racial profiling.

9 On April 27th there was a large
10 demonstration at the State Capitol, more than 1000
11 people from across the State of California got on
12 buses to go up to the State Capitol to demand
13 mandatory data collection and to support Senator
14 Kevin Murray's bill that would require all law
15 enforcement agencies in the State of California to
16 collect data regarding the race and ethnicity of
17 people who are stopped and searched by the police,
18 so that it would be possible to prove and to
19 determine and to measure the extent of racial
20 profiling by particular law enforcement agencies
21 in this state.

22 At that demonstration Senator Murray
23 announced that a deal had been cut with the
24 Governor, and that a bill had been agreed upon in
25 which racial profiling would be outlawed. It

1 would be banned.

2 Senator Murray did not mention to the
3 crowd that racial profiling is already illegal.
4 It has long violated the U.S. Constitution. It
5 has been illegal for about 200 years. It's
6 prohibited by the Fourth Amendment to the U.S.
7 Constitution, the Fourteenth Amendment to the U.S.
8 Constitution, Title 6 of the Civil Rights Act.
9 It's been illegal for a very long time.

10 The problem has not been that racial
11 profiling is legal. The problem is that it's
12 impossible to prove the extent of racial profiling
13 or its existence at all without the collection of
14 data.

15 The other reforms that were agreed upon
16 in this deal between Senator Murray and Governor
17 Davis come straight from the LAPD. The diversity
18 training and the idea of handing out business
19 cards to people who are stopped come straight from
20 the LAPD. The LAPD issued a press release
21 congratulating Senator Murray and Governor Davis
22 on their agreement, noting that this will require
23 all law enforcement agencies to embrace a long-
24 standing LAPD practice.

25 When this was announced to the crowd,

1 that in fact Senator Murray had abandoned data
2 collection, and that this deal, in fact, would ban
3 something that was already illegal and require all
4 law enforcement agencies to do something that the
5 LAPD was already doing with respect to racial
6 profiling at a time when the Los Angeles Police
7 Department is under federal investigation for
8 corruption and targeting people on the basis of
9 race, there was tremendous disappointment. And I
10 would say really outrage regarding the agreement
11 that had been reached.

12 And the reasons for the outrage and the
13 reasons for the disappointment is because of the
14 frustration the communities of color have felt for
15 years and years being powerless to prove
16 complaints of discrimination.

17 The problem of racial profiling is
18 nothing new. The fact that we are all gathered
19 here today treating it as something important and
20 worth holding a meaningful conversation about is
21 directly traceable to the release of data in New
22 Jersey and Maryland which proved that what people
23 of color had been complaining about for years and
24 years was actually true.

25 It's very unlikely that we would all be

1 here today if that data hadn't been released.
2 When New Jersey State Police had denied for years
3 and years that their officers had engaged in
4 racial profiling, saying, no, we have good
5 training for our officers, our officers understand
6 the law, our officers would never engage in the
7 targeting of motorists on the basis of race.

8 But then when they were required by
9 court order to actually collect data regarding the
10 race and ethnicity of people who are stopped and
11 searched by the police, they found, to their
12 surprise, that although African-Americans
13 constituted about less than 17 percent of the
14 drivers on the road, they were more than 70
15 percent of the drivers who were stopped and
16 searched.

17 And although law enforcement may have
18 been surprised by that, it was not a surprise to
19 communities of color. But what it did was it
20 empowered them finally to be able to do something
21 about it.

22 Complaints had been made. There were
23 training programs within the New Jersey State
24 Police, but nothing changed there until data was
25 collected that supported the complaints of people

1 of color, and demonstrated that this is real, this
2 is not imagined.

3 Data collection holds a mirror up to law
4 enforcement agencies, and allows communities and
5 the department, itself, to be able to determine
6 what law enforcement agencies are actually doing,
7 as opposed to just what they say they're doing, or
8 what they're trying to do through training, or
9 whatever programs they may have.

10 Data collection is absolutely essential.
11 Because without it all you have are good
12 intentions without any way of measuring whether or
13 not those intentions are actually being realized.

14 Just last week the language for this
15 compromise bill was released for the first time.
16 As it turns out, the deal is much worse than many
17 people ever imagined.

18 Although Governor Davis and Senator
19 Murray had claimed that, you know, this bill would
20 go beyond current law, and would prevent and
21 prohibit racial profiling that isn't already
22 covered by current law, and that it would create a
23 new cause of action, a right to sue for racial
24 profiling, the actual language of the bill does
25 not do that.

1 It simply states that law enforcement
2 officers may not stop people unless there's
3 individualized suspicion. That's the Fourth
4 Amendment, that's been the law for 200 years.
5 There is no new legal cause of action in the bill.
6 There is no new right to sue. There are no
7 criminal penalties, no civil penalties. There is
8 nothing new legally in this compromise bill.

9 The compromise bill also includes
10 provisions regarding diversity training. This new
11 bill, SB-66, for those of you who may be unaware,
12 is a bill that was parked in the California
13 Legislature for about two years.

14 Senator Murray introduced SB-66 at the
15 same time that he introduced the mandatory data
16 collection bill, which was SB-1389. He decided to
17 park SB-66, which was a diversity training bill,
18 for two years because he knew that if law
19 enforcement, police unions, specifically, were
20 given a choice between diversity training, which
21 would have no police accountability and would not
22 allow communities to track or prove
23 discrimination, or a choice between that and
24 meaningful police accountability through data
25 collection, the law enforcement would flock to the

1 diversity training and oppose the data collection.

2 And because he wanted to prevent that
3 from happening, and he wanted to insure that
4 communities would have the ability finally to be
5 able to track and prove discrimination, he decided
6 to park that bill for two years, and insure that a
7 data collection bill would be signed first.

8 And after the data collection bill would
9 be signed, then he would move the diversity
10 training bill. He wanted to insure that a data
11 collection bill was signed and enacted into law
12 first before the diversity training bill was
13 moved.

14 Well, as it turns out, through the deal
15 that he reached with Governor Davis he decided to
16 pick up that diversity training bill, but he'd
17 gutted it of all of the substantive training
18 provisions in it. And handed over nearly
19 unfettered discretion to POST, which was described
20 earlier. And which POST has been, you know, a
21 staunch opponent of mandatory data collection.
22 Nearly unfettered discretion to determine what the
23 training actually would be.

24 The third component of the deal that was
25 reached was to hand out business cards to people

1 who were stopped. As I mentioned, this aspect of
2 the deal came straight from the LAPD.

3 What Governor Davis and Senator Murray
4 said in support of the business card idea was
5 that, you know, it would empower people to be able
6 to make complaints. They would provide a
7 complaint line so that when people, if they felt
8 they had suffered discrimination after being
9 interrogated or searched or handcuffed and
10 humiliated, that then they would have a card, a
11 number they could call to register a complaint.

12 And, again the problem has never been
13 that people haven't been able to make complaints.
14 The problem has been that when people made
15 complaints it's just one person's word against a
16 police officer's. And in those rare instances
17 where police misconduct is acknowledged it's
18 dismissed as an isolated incident.

19 And law enforcement says there's no
20 reason to believe that there's a pattern of
21 misconduct here, but, of course, there's no
22 evidence to prove a pattern of misconduct because
23 no data is collected.

24 Well, this business card, as it turns
25 out, will contain a phone number, but there is no

1 guarantee in the legislation whatsoever that this
2 phone number that will be provided would be linked
3 to the complaint system of law enforcement
4 agencies. There's nothing in the bill that would
5 require follow-up on the complaints. That these
6 complaints actually be investigated or followed up
7 on in any way, or to be treated as a formal
8 complaint as required under the Penal Code.

9 It really, in effect, creates a
10 suggestion line and allows people to call up and
11 leave suggestions or comments in the hopes that
12 perhaps someone might take it seriously and follow
13 up on it.

14 In many respects this bill does reduce
15 police accountability rather than increase it,
16 because it will make it more difficult to identify
17 and track complaints than it would be before.

18 So what we have here is really an
19 incredible attempt to quash data collection. To
20 avoid data collection, and to offer something that
21 sounds good, has rhetorical appeal and is symbolic
22 in nature, but won't do anything meaningful to
23 address the problem because it leaves communities
24 utterly powerless to identify discrimination when
25 it exists, and to prove it.

1 Now, why is there so much opposition
2 within some police unions to collecting this data?
3 And the reality is that when data's collected and
4 it proves discrimination, changes have to be made.
5 Communities are empowered to demand that change
6 occur within a department when it is obvious the
7 communities are suffering discrimination.

8 And therefore there is an incentive
9 within police unions that are resistant to change
10 to oppose data collection. Because it will
11 empower communities to prove discrimination, to
12 demand that change actually occur and it will also
13 allow communities to identify particular police
14 practices that are having a disparate impact on
15 communities.

16 As I mentioned before, when the New
17 Jersey State Police released a study that showed,
18 you know, that people of color were stopped at
19 grossly disproportionate rates every study of
20 racial profiling, comprehensive study of racial
21 profiling that has been done to date, has shown
22 that people of color are stopped at grossly
23 disproportionate rates. And searched at grossly
24 disproportionate rates.

25 Those studies have also shown that

1 contrary to popular belief, people of color are no
2 more likely than whites to be carrying drugs or
3 other contraband in their vehicles. But because
4 they are stopped and searched at grossly
5 disproportionate rates, they are also arrested and
6 incarcerated at grossly disproportionate rates.

7 It's what the New Jersey Attorney
8 General dubbed, you know, the circular illogic of
9 racial profiling. Law enforcement will point to
10 arrest rates and incarceration rates of African-
11 Americans and Latinos as a justification for
12 racial profiling, when in reality those arrest
13 rates and incarceration rates are often a product
14 of racial profiling.

15 And so it cannot be a justification by
16 law enforcement that it makes sense for us to
17 target particular communities, or target
18 particular races because they're the ones that are
19 most likely to be involved in criminal activity.

20 Every study of racial profiling has
21 shown people of color are no more likely to be
22 carrying drugs or other contraband in their
23 vehicles, but because they're targeted at grossly
24 disproportionate rates they suffer the
25 consequences.

1 Every study of racial profiling has also
2 shown that contrary to popular belief police do
3 not target primarily guilty people. The vast
4 majority of people who are stopped and searched by
5 law enforcement are completely innocent of any
6 crime whatsoever.

7 But because no record is kept of
8 encounters between innocent people and people who
9 are stopped and searched and interrogated, and
10 then released without a ticket or citation or
11 warning of any kind there is no way to prove the
12 extent of discrimination that is actually
13 occurring.

14 In fact, "Esquire Magazine" published an
15 article which showed that the California Highway
16 Patrol, its drug interdiction canine unit, in one
17 year alone, 1997, one canine drug interdiction
18 unit stopped nearly 34,000 people in the hopes of
19 finding drugs. Yet less than 2 percent of them
20 were actually carrying drugs or contraband of any
21 kind.

22 Meaning that literally tens of thousands
23 of innocent motorists were stopped, and sometimes
24 searched, treated like criminals for no reason
25 other than a police officer's mistaken hunch.

1 This has a tremendous toll on police/
2 community relations, and it does, as was so
3 eloquently described by Tom Saenz and Dr.
4 Washington, affect the perspective that people
5 have on law enforcement, often for the rest of
6 their life.

7 Data collection is required in almost
8 every other context in order to root out
9 discrimination. Data collection is required by
10 federal and state law to prevent and track
11 discrimination in employment, housing, voting
12 rights, public contracting, education.

13 In almost every context in which we
14 might be concerned that people of color might
15 suffer discrimination, federal and state law
16 demand that data be collected so that it's
17 possible to identify, measure, track, prove and
18 prevent it. Why should law enforcement be exempt
19 from this requirement?

20 I'm hoping that this Commission, which,
21 you know, has the kind of noble, very noble task
22 of bringing communities together around pressing
23 social issues, will oppose any effort to address
24 the problem of racial profiling that does not
25 include data collection.

1 Data collection is absolutely essential
2 to do anything about the problem. Police chiefs
3 who claim that racial profiling does not exist in
4 their department have no way of knowing whether
5 that is true without the collection of data.

6 Those that claim that diversity training
7 programs will solve the problem of racial
8 profiling have no way of determining the
9 effectiveness of that program without the
10 collection of data.

11 Victims of racial profiling who call
12 that number on the back of a business card and
13 leave a complaint will have no way of getting
14 beyond it's your word against the police
15 officer's, without the collection of data.

16 Without the collection of data we will
17 be left in the same cycle of accusations and
18 denials which has brought us to the contentious
19 point we are in today. There is no need for that.

20 Today there are more than 50 law
21 enforcement agencies in California that have
22 agreed to collect data voluntarily because they
23 recognize the critical importance of having this
24 information so they know what their officers are
25 actually doing on the street. And as a gesture of

1 good faith towards communities of colors, that we
2 are interested in taking this problem seriously,
3 and we want to empower you, as well as ourselves,
4 to be able to address it in a meaningful way.

5 Even those law enforcement agencies that
6 have refused to collect all of the data required
7 under the bill have actually produced some
8 interesting studies that have shed light on the
9 nature of discriminatory police practices.

10 For example, the San Francisco Police
11 Department was ordered by its Police Commission to
12 begin to collect data voluntarily regardless of
13 whether Governor Davis signed the bill.

14 And then when they went away they
15 decided, well, we don't really feel like
16 collecting all of the data that's necessary to
17 determine whether there was a problem, why don't
18 we just do a one-week study of traffic tickets and
19 see what that tells us.

20 Now, of course a one-week study of
21 traffic tickets is completely inadequate because
22 racial profiling is not simply an issue of who
23 gets ticketed.

24 It's an issue of who gets stopped, the
25 reason for the stop, and how people are treated

1 after they've been stopped. Are they searched?
2 Are they interrogated? Are they arrested for a
3 crime they didn't commit?

4 Without that basic information you
5 really have no way of knowing whether racial
6 profiling is a problem in your community.

7 But even this one-week study of traffic
8 tickets showed that although African-Americans
9 were about 10 percent of the population in San
10 Francisco, they received more than 50 percent of
11 the jaywalking tickets, and more than 50 percent
12 of the tickets for driving too slowly.

13 So, even this limited amount of data
14 actually provided the San Francisco Police
15 Department with very useful information that it
16 could then use to assess what types of changes
17 might need to be made in their department.

18 And now, I'm also pleased to say, they
19 have agreed to engage in a comprehensive data
20 collection program so that they will be able to
21 measure the extent of racial profiling that may be
22 existing in their community.

23 I'd like to end by finally saying that
24 there are some people who will say that we should
25 just kind of settle for what we can get here.

1 That Governor Davis has said that he would veto a
2 data collection bill, and he would veto it again,
3 and so we should just settle for business cards or
4 whatever training program we might be able to get.

5 I think that's unacceptable. Data
6 collection is essential to do anything meaningful
7 about this problem. And Governor Davis, this
8 year, has made very clear that he understands that
9 it's a serious problem in California, and needs to
10 be addressed.

11 It is therefore critical that we come
12 together and demand a meaningful approach to the
13 problem that will empower communities to actually
14 do something about it, and empower departments to
15 be able to evaluate the extent of discrimination
16 that may be occurring.

17 Some may say we should just wait until
18 we have another governor that might be more
19 sensitive to the concerns of communities of color
20 and might be willing to stand up to police unions
21 that have donated hundreds of thousands of dollars
22 to his campaign.

23 I say no. I think we can count on this
24 Governor to do the right thing, and to sign a
25 mandatory data collection bill this year. So I

1 encourage people to oppose any effort to pass a
2 bill that does not include data collection.

3 This bill can be amended to include data
4 collection, and we can go forward from here with a
5 meaningful solution to this problem and get beyond
6 the accusations and denials that have plagued us
7 for too long.

8 Thank you.

9 (Applause.)

10 LIEUTENANT GOVERNOR BUSTAMANTE: Thank you,
11 Michelle.

12 We're going to take about a ten-minute
13 break, allow the Commissioners to go right through
14 those doors and to grab a little food; to come
15 back here for discussion.

16 Why don't we take a break for about ten
17 minutes, 15 minutes at the most.

18 In the meantime, members of the audience
19 who are interested in having questions asked, my
20 staff has passed out index cards.

21 Now would be the time for you to fill
22 those cards out and get them to the staff so that
23 they can be considered in the discussion that's
24 about to take place.

25 Thank you.

1 (Whereupon, the morning session of the
2 dialogue was adjourned, to reconvene
3 later this same day.)
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1 AFTERNOON SESSION

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3 LIEUTENANT GOVERNOR BUSTAMANTE: The Members of
4 the Commission are going to be coming in here. I
5 think most are here, and we should, for the time's
6 sake, go ahead and move on.

7 Again, for those members of the audience
8 who are interested in submitting questions, the
9 cards have been distributed and we will be
10 receiving them up here.

11 Open discussion. To any of the
12 presenters, there clearly has been a wide range of
13 activity that's been stated. Everything from what
14 is the official training activity to a current
15 bill and what is considered to be the politics
16 around that bill. Pretty broad in terms of the
17 kinds of activities even for this particular
18 issue.

19 Just as a note, Senator Murray was
20 scheduled to be here. He was unable to leave the
21 floor of the Senate this afternoon, and so he will
22 not be able to join us this afternoon. That's too
23 bad, he could have provided more insight as a
24 counter to the presentation that was made by
25 Michelle Alexander. However, we'll hopefully be

1 able to get that information at another time in
2 the future.

3 There were several things that were
4 suggested during the presentations. Everything
5 from nonuniform practices and data collection to
6 the impact of community colleges on 50 percent of
7 those that are trained. The activities of POST
8 and the kinds of discretionary actions that are
9 taken by both individuals and departments.

10 Things on how to like detect potential
11 problems, like officer complaints of racial
12 discrimination could indicate a real problem in a
13 community. And the need for officers to feel that
14 they could, in fact, present those kinds of
15 concerns to their leadership.

16 And, also why data collection, in fact,
17 is not mandatory or could it be done in a pilot
18 form, or just exactly how imperative is data
19 collection to this whole process.

20 And then issues of how immigration and
21 other kinds or other forms of very onerous
22 language also is effected in the idea of racial
23 profiling which is not considered mainstream in
24 the issue of racial profiling, however elicits
25 some of the strongest reactions.

1 And then everything from no follow up in
2 this particular legislation to no cause of action
3 and to the need for data collection as the
4 premiere tool in order to determine whether or not
5 there is a problem.

6 As I was talking to a member earlier, I
7 said in my view this is not just a matter of how
8 it affects the community, and although that is a
9 very very important human side of this public
10 policy issue.

11 If it's correct that 70 percent of stops
12 are African-Americans and only 2 percent are found
13 guilty, then it seems to me a huge waste of police
14 resources in doing what they were doing. And
15 maybe we could figure out a better way for police
16 officers to ID the guilty, and spend some of that
17 amount of time in trying to track down bad guys,
18 instead of stopping the good guys.

19 And so there is an issue here of not
20 just good public policy, but efficiencies.
21 Efficiencies in terms of how people run their
22 departments; efficiencies for the taxpayers; and a
23 much, much better activity between police
24 departments and those communities. And actually
25 trying to provide a better way of the police

1 department providing the real mission for a
2 community, and that is safety to the community,
3 and not trying to be in a bully position, or one
4 in which the residents don't feel that, in fact,
5 they are serving that community.

6 So, Members, as some of you have your
7 forks halfway in, and for those of you who are
8 almost done, we are now open to all the members of
9 this panel, as well as anything that you might
10 like to raise. So I will leave it open. Yes, why
11 don't you go ahead and start.

12 COMMISSIONER: I just wanted to hear Dr.
13 Robert's comments on Michelle's presentation about
14 data collection, because you were very much
15 opposed to it. So, I'd sort of like -- or at
16 least data without a purpose.

17 So, I wanted you to comment about that.

18 DR. KLITGAARD: Well, I was very excited
19 by, if I may say Michelle, if I may use your first
20 name, I was very excited by her presentation.

21 I thought, in fact I was stunned by the
22 quality and the lucidity and the relevance of all
23 the presentations here, but I'm very interested in
24 the idea that data provide the basis for
25 transparency and accountability. That's crucial

1 for any kind of work against misuse of discretion
2 and misuse of power.

3 My point is, and I think -- and this is
4 my point, I would like to ask everybody, I bet you
5 with a half an hour of work this afternoon we
6 could get everybody at this table, and maybe all
7 of you, onto an idea about given that there are
8 some police forces such as Ron's and Roulette's,
9 that are now collecting these data, the real
10 question is how do we get those data in a form
11 that can be used by communities, that can be used
12 to really create an accountability in a benefit/
13 cost type of framework. You know, to sort of
14 track the thing along.

15 I think that's an open question. The
16 data I've seen from New Jersey and Maryland, I
17 haven't seen what the police forces have done with
18 it. Michelle, maybe you can tell us, or what the
19 ACLU has done with it.

20 But I think it's one question to collect
21 the data, and the second and interesting question,
22 maybe this Commission could make a contribution on
23 this now. Now that we have that data, are there
24 ways we can push forward the analysis and use of
25 that data to empower communities, and to help

1 police forces to do a better job.

2 I think the answer has got to be yes,
3 and there's got to be a way we can do better.

4 COMMISSIONER: That seems to have been
5 done in New Jersey and Maryland.

6 DR. KLITGAARD: They collected the data,
7 but I haven't seen -- Michelle, maybe you could
8 help us on this, but I haven't seen the results
9 of, therefore because we have the data, now we
10 have routines of accountability set up which
11 enable police forces to make better choices of
12 resource allocation, enable them to limit
13 discretion more efficiently, enable people to have
14 voice more effectively in the community.

15 I haven't seen that part, although I
16 agree 100 percent with all the speakers who
17 emphasized those points as the objective down the
18 road.

19 MS. ALEXANDER: The New Jersey consent
20 decree really is a model that I encourage everyone
21 to look to. It's, you know, available on the
22 internet.

23 You can check it out and see what kind
24 of a model program looks like to eradicate racial
25 profiling. It includes data collection as an

1 essential component.

2 And one of the things that is key to the
3 program they have set up in New Jersey is the
4 accountability that data collection provides, in
5 the sense that the department has agreed to engage
6 in a number of reforms that include everything
7 from changing the way officers are trained,
8 changing the types of stops that they're allowed
9 to execute, changing the focus from drug
10 interdiction to traffic enforcement. Because when
11 the focus is drug interdiction then officers are
12 just using their hunches to stop people based on
13 who looks like a drug dealer, who looks like they
14 might have drugs in their car.

15 Placing an emphasis on diversity of
16 officers and all of that. But the key for data
17 collection is it allows the department to measure
18 its progress.

19 So after the first six months they then
20 came back and said, well, have the numbers
21 changed. Have the new training programs, have the
22 new provisions that have been instituted in the
23 manuals, have the changes that have been made in
24 terms of personnel, have the redirection of
25 resources actually manifested in a change in the

1 numbers?

2 Is the proportion of African-Americans
3 who are being stopped going down? And during the
4 first cycle there was no appreciable change.

5 However, there has been change now, over
6 time, and the key about data collection, you're
7 able to measure the extent of change. And you can
8 evaluate whether the training programs that you're
9 instituting are actually working. Whether the
10 changes in personnel you're making is actually
11 having an impact. Whether a shift in resources
12 makes sense. Whether a change in philosophy in
13 the department is necessary.

14 Some departments have problems of racial
15 profiling because the general philosophy of the
16 department is that we're engaged in a war on
17 drugs. And as with any war, you have to have an
18 enemy.

19 LIEUTENANT GOVERNOR BUSTAMANTE: And
casualties.

20 MS. ALEXANDER: And casualties. And
21 those enemies are often defined on the basis of
22 race. The data allows you to measure whether or
23 not the changes that you're instituting are
24 actually effective.

25 LIEUTENANT GOVERNOR BUSTAMANTE: We, in fact,

1 might even consider from what was presented here
2 today, that we might recommend that we attempt to
3 find think-tank organizations who do analysis of
4 this kind of data, perhaps in addition to what
5 police departments do in the collection of their
6 own data.

7 It might be helpful to enter into some
8 arrangement where a think tank, like maybe a RAND
9 or somebody else, would be able to come in and
10 obtain the information in order to be able to come
11 to some conclusions and have tremendous management
12 in administrative experiences, and be able to
13 maybe even make some suggestions from that.

14 Yes.

15 SPEAKER: It seems to me that data
16 collection and all that is very important in terms
17 of profiling, as it's been discussed in the media,
18 in terms of police stops, police vehicular stops.

19 But, of course, we have what's been
20 defined as racial profiling way beyond vehicular
21 stops. And it seems to me that one of the keys,
22 was mentioned by at least two of the speakers, and
23 that is the incentive systems found within the
24 police department.

25 Officer Burks mentioned that police

1 officers will get rewarded for stops or arrests,
2 particularly. And that's the measure of
3 criminality and how much the police therefore are
4 succeeding in finding, quote, criminality.

5 It seems to me we have to look anew at
6 those incentive systems. If they don't change, it
7 may be that the racial profiling and the vehicular
8 stops will get better for awhile. But in the long
9 run it seems to me it's not going to change.

10 So, I'd welcome some discussion by
11 particularly Dr. KLITGAARD and Officer Burks, who
12 raised this issue, and by the others. Because it
13 seems to me that they clearly identified a key in
14 changing police practices.

15 LIEUTENANT GOVERNOR BUSTAMANTE: Apparently my
16 staff believes that they should leave the room and
17 go eat. Let me tell you, staff, if you can hear
18 me, you don't get a chance to eat.

19 (Laughter.)

20 LIEUTENANT GOVERNOR BUSTAMANTE: So, stay in
21 here.

22 Any comments from the panel on this?

23 SPEAKER: Let me make a comment about
24 the data collection. First of all, based on the
25 computer technology today, it was my opinion that

1 they could and should be able to get this
2 information right now.

3 But after listening to Ms. Alexander's
4 presentation I do feel that we need that data
5 collection component in the law, and it needs to
6 stay in there.

7 And as she said, we should absolutely
8 keep it in there. And not compromise with it.
9 I'm sold on that.

10 The second thing is it's going to take
11 more than just collecting the data. You're going
12 to have to change the incentive for police
13 officers. You're going to have to change their
14 perceptions about who the criminals are. And as I
15 didn't get a chance to explain, and as someone
16 else so eloquently put it, there are other people
17 like you -- the media.

18 The media has a big role in defining or
19 causing people to have a perception about who the
20 criminals are, and how the police react. Because,
21 after all, they want to do a good job for the
22 community, if nothing else, to look good. When
23 they go to get raises they can get their raises
24 because they have those statistics to show that
25 they've been making a lot of arrests.

1 And as you said, there is a
2 misconception about how this data can affect, on a
3 long-term basis, how we change what is happening.
4 And I think we do need to take a look at that.

5 Again, I cannot get away from Ms.
6 Alexander's point of making sure we collect the
7 data so we have some hard evidence, because that's
8 absolutely what they're using. They're using hard
9 evidence to say we're doing all right, or they
10 have hard evidence to say we don't need to do
11 this. And we need to get hard evidence to counter
12 that.

13 LIEUTENANT GOVERNOR BUSTAMANTE: Go ahead.

14 COMMISSIONER NAVA: Yes, I really wanted
15 to thank Michelle Alexander for what I felt was a
16 really important point of putting the entire
17 discussion into its proper context.

18 I was getting a little bit upset at the
19 beginning of the discussions because it seemed to
20 be well, what are the trade-offs of this, benefits
21 versus, you know, problems with society.

22 As opposed to the fact that this is
23 illegal, and has been illegal for 200 years. And
24 it's not what this country is about, and what it
25 has ever been about. And that the discussion

1 should really be about how do we address and get
2 rid of something that is illegal.

3 And, you know, obviously there could be
4 so many parallels made about police states, and
5 how, you know, various police states have no
6 crime, and the trains running on time and all
7 this. But all this is important to us, as
8 Americans, and to the system of government that we
9 have here, and the individual rights of our
10 people.

11 So, I'm glad that she said that,
12 because, in fact, I believe the context of the
13 conversation should be how do we get rid of this
14 illegal practice.

15 And toward that end I have really two
16 questions that I want to ask the speakers. One is
17 to the gentleman who was talking about the
18 training, Chief Gary Creason, correct?

19 He stated that in no way in any training
20 for policemen and policewomen, law enforcement
21 officers here in California anywhere is racial
22 profiling taught, is it shown to them to be a
23 thing to do in any of their training.

24 So if that is the case, I would like to
25 know where do they learn to do it? How do they

1 learn to do it? What guidelines are they given to
2 do it? Is this just left up to their own ideas
3 and prejudices that they bring into their job?

4 They clearly do it, we all know that.
5 So where does it come from if they're not taught
6 it by your schools?

7 CHIEF CREASON: I don't have an exact
8 answer to that, Mr. Nava, but I will give you my
9 opinion.

10 I believe that young peace officers
11 going into law enforcement today are exposed to
12 senior officers that have established practices of
13 their own. They have prejudices, they have ways
14 that they do things, they have their own targets.

15 Those folks, in my opinion, the senior
16 officers who are not educated, are not sensitive,
17 are not diverse, they are the ones who are
18 corrupting, if you will, our younger officers.

19 And I wish that I had the answer to
20 correct that, but I don't, unfortunately.

21 COMMISSIONER NAVA: So it seems to me
22 this is a very highly arbitrary practice. And I
23 might also say, since I'm involved in the media,
24 not only these officers are predominately white,
25 as they seem to be, that they have not been

1 exposed to Latino culture, African-American
2 culture in any kind of a deep way.

3 Not only are they getting these
4 practices and these prejudices from their senior
5 officers, but from tv and the movies.

6 CHIEF CREASON: Oh, yes, that's --

7 COMMISSIONER NAVA: I mean that's all
8 they see on tv is that all Latinos are drug
9 dealers. And as Cruz so wonderfully pointed out,
10 there's got to be an enemy in the drug war, and
11 well, that's clearly Latinos, I mean they're all
12 in -- I mean the drug lords all come from
13 Colombia, right?

14 So, you know, I would also have to say
15 that from my own perspective, it seems like a much
16 farther reaching issue, since you know, your point
17 here is that these officers are simply bringing
18 what they have to come into with, it's a larger
19 societal issue, because we're also now talking
20 about the media and how people are portrayed in
21 the media. These also create the prejudices that
22 these officers bring to their job.

23 The other question I have, and then I'll
24 surrender the floor, is to Michelle Alexander. I
25 agree with you wholeheartedly and am now also

1 completely on board with the concept of data
2 gathering.

3 But I'd like you to address the issue of
4 who gathers the data. And how the data would be
5 gathered.

6 Because it seems to me that how this
7 data is being gathered would affect what the data
8 is. And so how should that happen --

9 LIEUTENANT GOVERNOR BUSTAMANTE: Sort of is
10 there a basic template?

11 MS. ALEXANDER: Well, currently there
12 are large and small law enforcement agencies that
13 are collecting the data, and they're collecting it
14 in different ways.

15 Some fill out, just have short little
16 cards where people check boxes on the cards. Some
17 law enforcement agencies do it through their
18 computerized in-car data collection systems that
19 are already in place in their vehicles.

20 So there isn't kind of one way of going
21 about collecting the data. One of the concerns
22 that is often raised, though, is there a danger to
23 having law enforcement collect this data, will
24 they falsify the data.

25 And that's a concern we've heard from

1 community groups time and time again, that well,
2 they could just cook the books essentially and,
3 you know, stop an African-American and check white
4 instead. And that has happened in some places.

5 You know, you may be aware that in New
6 Jersey there were officers indicted for falsifying
7 the data, and stopping African-Americans and
8 checking white, and that sort of thing.

9 So that kind of conduct has happened.
10 Yet, even in those instances where data has been
11 tampered with, we still see very compelling
12 evidence of racial discrimination and we still do
13 get information that's useful to identify the
14 particular practices and departments that need to
15 change.

16 So the risk that there may be some bad
17 apples that, you know, would falsify the data, I
18 don't think is, standing alone, a reason not to
19 collect any data whatsoever.

20 Other people argue, well, maybe it would
21 make sense to put data collection in someone
22 else's hands, you know. Why don't the ACLU
23 collect data. Or why doesn't some other
24 organization try to keep track of this.

25 And the reality is that it's impossible

1 for any outside organization to monitor the extent
2 of racial discrimination that's occurring. This
3 information has to be collected by law
4 enforcement.

5 And we set up a hotline for people to
6 call if they believe they've been stopped or
7 targeted on the basis of race. And within the
8 first three minutes of the hotline's operation we
9 received more than 100 calls and our system
10 crashed.

11 We've received thousands of calls since
12 then. But there is no way for us to determine,
13 even based on the amount of complaints we receive,
14 the extent of discrimination that's occurring in
15 particular communities.

16 Whether people call often has more to do
17 with whether the hotline, you know, they happen to
18 hear about it, it was reported in the newspaper or
19 where it was distributed. It doesn't tell us
20 about who was actually being stopped, as compared
21 to other racial groups within a particular
22 community.

23 So it really has to be done by law
24 enforcement.

25 LIEUTENANT GOVERNOR BUSTAMANTE: Everybody can

1 just sort of jump in when they have something.

2 SPEAKER: I'd just like to make a very
3 brief comment. First of all, on the question of
4 the illegality, as a point of fact the illegality
5 on this one is not so clear.

6 We may have to change the law. Let me
7 quote from Randall Kennedy, who's a professor of
8 law at Harvard University, who writes that --
9 talks about the United States v. Weaver, in which
10 the U.S. Court of Appeals for the Eighth Circuit
11 upheld the constitutionality of a particular
12 officer's actions of using racial information.

13 The court declared: Large groups of our
14 citizens should not be regarded by law enforcement
15 officers as presumptively criminal based upon
16 their race.

17 The court went on to say, however, that,
18 quote, "facts are not to be ignored simply because
19 they may be unpleasant." According to the court
20 the circumstances were such that it made sense for
21 the officer to regard blackness when considered in
22 conjunction with other factors, as a signal that
23 could be legitimately relied upon in a decision to
24 approach, and ultimately to detain the suspect.
25 This was the Eighth Court.

1 Then there were other courts that had
2 followed suit with this. For example, decisions
3 about screening at borders, and screening at
4 airports, that they argued the constitution,
5 despite what Michelle said, although I'm not
6 saying I disagree with her, the constitution does
7 not prohibit police from routinely taking race
8 into account when they decide whom to stop and
9 question as long as they do so for purposes of
10 bona fide law enforcement, not racial harassment.
11 And as long as race is one of several factors that
12 they consider.

13 So the legality of this question is an
14 issue, is a policy issue you consider. Should
15 there be a law that bans this is a question that's
16 not so clear, at least the way the courts are
17 interpreting the constitution. That's point one.

18 Point two is if we collect information,
19 we know this from many other areas of our life,
20 and Michelle mentioned the use of housing, voting,
21 other areas where we do collect information, we
22 know that that's a first step, not a final step,
23 toward changing institutional behavior.

24 We have to link the information up to
25 accountability systems and to incentive systems so

1 that the people in those bureaucracies don't use
2 the folk wisdom that they developed not through
3 training programs, but through their own
4 experience and culture within the organization, to
5 use race or proxies for race in ways that we don't
6 want them to do so.

7 So that's the reason I was talking about
8 the benefit/cost tradeoff is, because we have to
9 understand how these institutions work so that we
10 can cleverly go in and try to change the
11 calculations of benefits and costs, so that the
12 reforms are more long lasting.

13 LIEUTENANT GOVERNOR BUSTAMANTE: Officer Burks.

14 OFFICER BURKS: Okay, I want to talk
15 about two things. With this data collection, I
16 think again it's important. I think one of the
17 ways we can handle the issues raised by data
18 collection is we can have law enforcement officers
19 to collect the data, which we're going to have to
20 do, as Michelle said.

21 However, what we can have as a backup
22 system or a check system is to have a random --
23 independent agency do a random sampling. For
24 example, if a person stopped Robert Burks and said
25 that Robert Burks was a white guy, simply this

1 independent agency would call Robert Burks and
2 say, I'm doing a survey, I want to know -- explain
3 why they're doing it --

4 (End tape 2A.)

5 OFFICER BURKS: -- my race is. I'll
6 tell him what my race is. If we find that
7 officers are falsifying this type of information,
8 then we're going to the disciplinary part of
9 dealing with it.

10 That's how we can do it and still let
11 law enforcement collect the data. So we have a
12 way of checking this information by a random
13 sampling.

14 Another thing, one of the issues that
15 was raised was about the academy training, what is
16 taught in the academy as opposed to what the field
17 officers train the new officers.

18 Now, what I haven't heard and what we
19 may have to take a look at is having POST
20 Certification take a look at the training officers
21 for law enforcement. I do know, from personal
22 experiences, that some training officers will tell
23 you, this is what you learned in the academy, but
24 this is the way we do it out in the field, so
25 forget about what you learned in the academy and

1 do it our way. That is a problem. And I think
2 POST has to address that.

3 In the Highway Patrol, when I first came
4 on, we had a problem in the area that I was
5 assigned to with not having African-Americans
6 being training officers.

7 We went to management and told them that
8 we were qualified to do the training, why weren't
9 we doing the training. And because of that makeup
10 of the Los Angeles area, which dumps most of their
11 minority officers, we were able to get the
12 management people who were of minority background
13 to put us into the training and have us as field
14 training officers.

15 Again, that helped because we could now
16 train young officers coming into the department
17 not to be racist, not to do things that were
18 inappropriate to the people of color.

19 CHIEF CREASON: Lt. Governor, if I may,
20 the California Commission on POST has, for
21 approximately the last year, been studying the
22 effects of basic academy training versus field
23 training.

24 They are in the process of bringing
25 those two separate groups of training on line with

1 each other, and actually taking the field training
2 officers, educating them with these workbooks, and
3 causing field training officers to reinforce what
4 the students are taught in the academies in the
5 field training program.

6 So that is in process, which I'm very
7 happy to see. Because, oftentimes, what you
8 addressed, Officer Burks, is that many new
9 officers were told to ignore what they learned in
10 the academy and do it our way. And that's
11 inappropriate.

12 LIEUTENANT GOVERNOR BUSTAMANTE: Reverend
13 Jackson.

14 REVEREND JACKSON: Yes. Along with
15 training individuals in the academy and also
16 through the POST training, and following up
17 individuals on the street, let me pose this to
18 you.

19 Why aren't individuals psychologically
20 screened prior to coming onto any department to
21 see what type of diversity conditioning they
22 already have, or preconceived notions they have?

23 I believe too often we find that
24 officers come from across the nation, and they
25 have no idea what diversity truly is. They have

1 what we call preconceived notions of what law
2 enforcement should be.

3 So how do you instill diversity into an
4 individual that has no conception of diversity to
5 begin with, or preconceived notion of diversity?

6 LIEUTENANT GOVERNOR BUSTAMANTE: Who do you
want
7 to direct that to?

8 REVERENCE JACKSON: To the Chief from
9 POST.

10 CHIEF CREASON: Thank you very much.
11 The first part of your question was psychological
12 examinations. It is a state law that every peace
13 officer, as part of their hiring process, must
14 pass a psychological examination.

15 I honestly don't know, and perhaps my
16 guess is that they are not tested in diversity.
17 But they are tested for psychological stability.
18 They are looked at as into areas where they might
19 be too aggressive, they might not be aggressive
20 enough. And each agency has the capability of
21 setting the parameters under which an officer is
22 hired, regarding the psychological test.

23 I don't know, not being a psychologist
24 or psychiatrist, myself, I don't know if it's
25 possible to test diversity. I imagine it probably

1 is. But I don't know.

2 REVEREND JACKSON: I don't think it
3 would be necessary to test someone on that
4 diversity, but just to look at their background.

5 For example, if an individual came out
6 of --

7 LIEUTENANT GOVERNOR BUSTAMANTE: Easy now.
8 (Laughter.)

9 REVEREND JACKSON: Let's say he came out
10 of Idaho, for example, and never set foot out of
11 the State of Idaho, out of this little pocket.

12 How would you expect him then to come
13 into let's say, for example, Los Angeles or San
14 Francisco, and have a diverse attitude?

15 OFFICER BURKS: Let me answer that
16 question. I'd love to answer that question
17 because I've had co-workers and one particular co-
18 worker who had told me of a situation where a
19 cadet in the California Highway Patrol
20 specifically said, that if they were assigned to
21 work East L.A., a Mexican area, they would not
22 work it.

23 I'm sure that same person had the same
24 attitude about South L.A., which is predominately
25 African-American.

1 And the thing is, law enforcement
2 agencies do not, absolutely do not do any
3 screening when it comes to diversity. And the
4 reason I know that is because of the attitude that
5 the officers have in the field.

6 Now, you can't have -- and this person
7 is still working, and they've moved up through the
8 ranks, as far as I know. And imagine that type of
9 person reaching the rank of captain or higher in a
10 department. You can imagine what kind of impact
11 that person can have and will have on the
12 department.

13 LIEUTENANT GOVERNOR BUSTAMANTE: Okay, we're
14 going to have to cut off this part of the open
15 discussion to get the next panel in. But we will
16 reopen this discussion after the next panel.

17 But let me go to Rabbi Bloom for the
18 last question.

19 COMMISSIONER BLOOM: As a person who is
20 completely ignorant of any of these issues of data
21 collection, I just wanted to give you a comment,
22 if I may.

23 I'm learning -- the learning curve is
24 great here for me. I see the issue of the data
25 collection as sort of the tip of the iceberg.

1 Because I understand it's a policy, legislative
2 issue, political issue, it makes sense.

3 But the real issue, as I'm listening to
4 everybody, is the education issue. And what I'm
5 hearing is that there really isn't any consensus
6 about to what extent there is a significant
7 emphasis on diversity training, cultural training.
8 It's an uphill battle, that's what I'm hearing.

9 And I think if there's anything this
10 Commission can do in a constructive way, besides
11 advocating data collection, is to address how
12 police officers are trained and to set, as a
13 model, the kind of values that we, as Americans,
14 should cherish, that these officers have to
15 embrace.

16 It's not a psychological issue. The
17 Rorschach test has nothing to do with moral
18 issues. These are moral issues. These are not
19 MMPI issues. These are the kind of human beings
20 and what they value and what their fears are.

21 And I just think that since I don't know
22 anything about what police training is, I'd like
23 to advocate that police training should consist,
24 besides protecting themselves, the officers have
25 to learn how to protect themselves and protect the

1 public, but they have to learn how to live in a
2 world as public servants, because that's what they
3 are, where that diversity piece is not just a 20
4 percent, it's a 50 percent part of what they do.

5 And what I hear is that it's not even 20
6 percent; it's still a struggle on that issue,
7 which is sad to hear. But I hope that we can make
8 progress on that.

9 Thank you.

10 LIEUTENANT GOVERNOR BUSTAMANTE: Dean Kay, you
11 had a quick question?

12 COMMISSIONER KAY: I just wanted to
13 comment on this question of psychology and
14 diversity training.

15 One of our faculty members, Professor
16 Linda Krieger, published an article a couple of
17 years ago in the Stanford Law Review called, "The
18 Content of Our Categories," in which she uses
19 psychological theory to show that the way the
20 courts have been defining discrimination as an act
21 of intentional desire to harm someone because of
22 their race is not at all consistent with the way
23 people think.

24 People learn to think in categories.
25 And if these categories are based on cultural

1 understandings that people of color are more
2 likely to be criminal than others, then the police
3 officer in the field will have that automatic
4 reaction.

5 And even if that person is a person of
6 the utmost good will, to eradicate those
7 categories requires enormous effort.

8 First of all, it requires acknowledging
9 that you are unconsciously using those categories.
10 And this is where, it seems to me, that data
11 collection becomes important, even before you ask
12 about what you can use the data for in order to
13 correct the system.

14 It becomes important because it forces
15 the unit to realize that they have, in fact, been
16 doing something that they would consciously like
17 to deny that they have done.

18 So it puts everybody on a level where
19 you can't deny this anymore. You have to confront
20 it. And then you have to say, all right, what can
21 we do to train people so that we can overcome
22 these kinds of ingrained biases.

23 And I'd be happy, Lt. Governor, to
24 provide a copy of that article. I think it would
25 be something that the Commission Members would

1 find very useful.

2 LIEUTENANT GOVERNOR BUSTAMANTE: Thank you.

3 We'll end this particular session. Members of the
4 panel, thank you so much.

5 (Applause.)

6 LIEUTENANT GOVERNOR BUSTAMANTE: While our next
7 panel is coming up, I'd like to just say thank you
8 to Pacific Bell for providing for the lunch.

9 Staff, do we have any additional food
10 left over? So if there's anybody in the audience
11 who hasn't eaten and they'd like to grab some
12 food, if you didn't get a chance to eat, please
13 feel free to go and grab a little something.
14 There's some pretty good chow back there.

15 I'd like to introduce the members of
16 this next panel as they're coming up and starting
17 to sit in their places.

18 Rulette Armstead, the Assistant Chief of
19 Police for the City of San Diego. The highest
20 ranking African-American female police officer in
21 the State of California.

22 San Diego Police Department has gained
23 national recognition for their program of
24 neighborhood policing.

25 Ronald Davis, a Captain with the Oakland

1 Police Department, and a Regional Vice President
2 of the National Organization of Black Law
3 Enforcement Executives.

4 He has worked with the NAACP and NOBLE
5 to develop a program called "The Law and You."

6 Commissioner Spike Helmick, appointed as
7 the Chief Executive Officer of the Highway Patrol
8 on November 1, 1995, by Governor Wilson, and
9 reappointed Commissioner in 1999 by Governor
10 Davis.

11 Last year the Governor mandated data
12 collection for traffic stops by the California
13 Highway Patrol. Now the CHP is also providing
14 assistance to local agencies who are seeking to
15 voluntarily collect data.

16 Sunny Lee, Program Manager for the Tools
17 for Tolerance for Law Enforcement Program at the
18 Simon Wiesenthal Center Museum of Tolerance.

19 Arthur Venegas, Jr., the Chief of Police
20 for the City of Sacramento, who is also now
21 implementing a voluntary data collection program
22 within the City, and formerly a Fresno boy.

23 And we also have again Dr. Washington
24 with the NAACP.

25 Why don't we go ahead and start with

1 first, with Rulette Armstead. Welcome.

2 (Applause.)

3 ASSISTANT CHIEF ARMSTEAD: On June 6,
4 1981, two San Diego Police Officers stopped a
5 group of young black men on Imperial Avenue. Now
6 there are really varying accounts of what occurred
7 that day during that stop. Some people say that
8 the young black man that was driving was very
9 arrogant and that he refused to identify himself
10 to the San Diego Police Officer that questioned
11 him.

12 Other accounts say that the police
13 officers hurled racial slurs at the young black
14 man and that they used excessive force. Others
15 indicate that this was a driving-while-black
16 issue, that the young black men really were not
17 doing anything wrong; that they had not violated
18 any traffic laws; and that they, in fact, were
19 stopped because they were black.

20 And the final analysis, what happened
21 during the stop is that two police officers were
22 shot, one was killed, one was permanently
23 paralyzed, and a ride-along was shot.

24 Ultimately the young black man that was
25 questioned by the police was acquitted of all

1 charges. That young black man was Sagan Penn
2 (phonetic).

3 What happened in the Sagan Penn
4 situation actually changed the course and the
5 history of the San Diego Police Department. There
6 was a lot of hurt, there was a lot of anger, there
7 was a lot of frustration after that trial.

8 But the San Diego Police Department
9 viewed this as a wake-up call. And what it did is
10 that it went about the business of trying to get
11 closer to the community.

12 Prior to that time what we did is we
13 actually went out and told the community what we
14 were going to do for them. We asked for very
15 little input.

16 What occurred is that the police
17 department made a conscious and deliberate effort
18 to actually build bridges. We began a
19 comprehensive training program called BASE,
20 Building Advanced Skills for Effective Policing.

21 There was a component that talked about
22 verbal judo, how to actually talk with people to
23 gain their compliance. How to be persuasive in
24 your manner of speech, so that force would not be
25 used.

1 We had more cultural awareness training
2 that was actually put into the curriculum at the
3 police academy. We had more sensitivity training
4 and there was a massive effort again to get more
5 closer to the community.

6 Now, I personally believe that there are
7 four major concepts that the San Diego Police
8 Department has employed since 1981 to improve our
9 relations with the community that we serve.

10 I think one is internal management. Now
11 we recently had a new police chief selected; and
12 that police chief has actually established his
13 values for the police department. He has stated
14 on several occasions that he will give incentives
15 for individuals that he hires who are bilingual,
16 who demonstrate in their screening that they
17 understand various cultures, that they understand
18 and believe in diversity, and that they will, in
19 fact, practice diversity in their everyday
20 contacts.

21 He has indicated that he wants stringent
22 background checks. We do psychological testing at
23 the San Diego Police Department. We just hired a
24 new psychologist, Dr. Blum, and Dr. Blum is
25 trained to actually insure that we're not

1 screening out people of color. Because there is a
2 contention, and he agrees, that some of the
3 psychological tests actually are biased against
4 officers of color.

5 What the Chief has also done is he has
6 established an advisory board. And that advisory
7 board actually has given him a lot of information
8 in terms of collecting data for the driving-while-
9 black-and-brown issue.

10 The prior police chief, Chief Jerry
11 Sanders, was actually kind of put on the spot one
12 day in front of the media, and they said, well,
13 what are you going to do about racial profiling.
14 And he says, well, we'll voluntarily do it. And
15 as a result of that, Chief Bertolano (phonetic),
16 our current chief, sort of inherited the agreement
17 that we would, in fact, collect data.

18 So that's what we're doing. We actually
19 began the data collection on April 1st.

20 Now, the problem that we're having is
21 we're not -- we don't know what we're going to do
22 with that data once we collect it. How are we
23 going to interpret it. We would like to have a
24 report of some sort out by the end of July.

25 Fortunately I've met Mr. KLITGAARD and

1 Mr. Saito here today and they've indicated that
2 they'd be willing to assist us at the Police
3 Department in terms of working along the lines of
4 trying to figure out how we can interpret that
5 data.

6 Again, we did establish an advisory
7 board that gave us a lot of input and terms of
8 what types of things we should be looking for,
9 what types of information we should gather when we
10 collected the data, what they would like to see
11 happen with the data.

12 So we have a working group of
13 individuals that have, in fact, given us a lot of
14 information, but again, we need someone from
15 academia to assist us in putting it together in
16 some order that is meaningful so that we can make
17 meaningful choices and meaningful decisions at the
18 San Diego Police Department in terms of what that
19 data actually means.

20 The Chief has also instituted surveys.
21 Every year a survey at the Police Department is
22 done. The latest survey that came out a couple
23 months ago says that there is a 93 percent
24 satisfaction rate overall in the San Diego
25 community. And that sort of cuts across all

1 racial lines. This is a general survey that is
2 conducted.

3 We've also restructured the entire
4 police department to bring better service to each
5 area command. Our lieutenants have 24-hour
6 responsibility.

7 We've restructured our juvenile service
8 teams because we know that the juvenile population
9 is going to increase in the next few years and we
10 also know that the crime rate prediction is that
11 juvenile crime will rise in the next few years.
12 So we've done a lot of work in terms of enhancing
13 our juvenile service teams.

14 The next section that I think we've done
15 a lot of work in is department and community
16 training. Prior to getting the current job that I
17 have now, I was tasked with actually putting
18 community oriented policing into the curriculum at
19 the San Diego Police Regional Academy.

20 That was a very very difficult task. It
21 took us two years. That meant that every single
22 course had to be changed. All of the instructors
23 had to be trained. All of the agendas had to be
24 updated. But we finally got there, and we're
25 proud to announce that now community oriented

1 policing transcends the academy training
2 curriculum.

3 We also have expanded and extended our
4 cultural awareness training at the academy. Our
5 aim is to have officers know how to problem solve
6 and how to interact with the people in general
7 when they leave the academy.

8 There have been concerns expressed that
9 our citizens academy is much too long, a lot of
10 people would like to, in fact, go to the mini-
11 citizens academy and find out what we do and how
12 we do it on a daily basis.

13 So what we're doing now is we're in the
14 process of actually shortening that. We had it so
15 that people had to attend classes like for six
16 months. We're trying to get that down to two
17 months.

18 We've recently purchased bean bags and
19 tasers for every single police officer and police
20 car that we have in our fleet at the San Diego
21 Police Department. And this, of course, was as a
22 result of a couple of controversial shootings that
23 we had, and from urging from the community to do
24 something so that we may not have to use lethal
25 force.

1 We've also printed rights and
2 responsibilities cards. And on those cards we
3 actually indicate what are the rights and
4 responsibilities of citizens when they get stopped
5 by police officers. What are the rights and
6 responsibilities of police officers when they stop
7 a citizen.

8 We actually do discussions when we
9 present this information. And we discuss
10 reactions. What happens when a police officer
11 walks up to a car. If you've ever been stopped by
12 a police officer usually the first thing that they
13 say is may I see your drivers license.

14 Well, the citizen really doesn't want to
15 hear that, the citizen wants to know what did I
16 get stopped for. So, why ask for the drivers
17 license when you should go up and probably explain
18 the reason for the stop.

19 So, those are the types of things that
20 we talk about in that session when we talk about
21 rights and responsibilities.

22 The third area, increased participation
23 and shared decision-making between the police
24 department and the community. Again, because of
25 the two recent shootings that we had, we actually

1 assembled a task force of 70 people from
2 throughout San Diego. Various cultures, various
3 backgrounds.

4 We have actually come up with ten
5 different committees whereby people from
6 throughout San Diego will be a part of those
7 committees, and we will tear the use of force
8 policy apart and try to make changes.

9 Part of that policy will also include
10 our pursuit policy at the San Diego Police
11 Department. Community and media responsibilities,
12 as it relates to inside and outside of the police
13 department. We're also going to be talking about
14 various mental health and homeless issues, and how
15 we interact with the mental health patients when
16 we encounter them in field situations.

17 Our purpose is to review and make
18 recommendations for change to the department's use
19 of force policy, and we hope that the results will
20 benefit citizens, officers and enhanced community
21 problem solving, and safety for citizens and
22 officers.

23 The fourth and final concept is
24 dialogue. We've just finished a series of
25 community forums. We've held forums throughout

1 San Diego and all of the communities and all of
2 the neighborhoods. We've talked about topics that
3 people in the community had an interest in. We
4 allowed them to actually set the agenda.

5 Those topics have included use of force,
6 hiring and recruiting practices, academy training
7 and field training, traffic issues, police/
8 citizens review board, and whether or not that
9 board should have subpoena power and investigatory
10 power.

11 We've established advisory boards at all
12 of our area commands. Each captain has an
13 advisory board made up of people in that
14 particular community.

15 We've also established advisory boards
16 fore the Chief. The Chief has a gay and lesbian
17 advisory board, African-American advisory board,
18 an Hispanic advisory board, Asian advisory board.
19 So we're trying to get as much input from the
20 community as we can.

21 Now, in all of this our aim is to build
22 trust and to build confidence between the police
23 and between the community. What we want to do is
24 we want to try to eliminate some of that fear; we
25 want to try to eliminate some of that distrust; we

1 want to build partnerships; and overall, we want
2 San Diego to be a much better community.

3 So I invite any ideas that you may have
4 to assist us. I really appreciate Mr. KLITGAARD's
5 offer to assist us with the racial profiling
6 situation, and yours, also, Dr. Saito.

7 And with that, I'll conclude my
8 presentation. Thank you.

9 (Applause.)

10 LIEUTENANT GOVERNOR BUSTAMANTE: Thank you. In
11 order to accommodate any flight schedule, ask
12 Arturo Venegas, Jr., the Chief of Police of the
13 City of Sacramento to be next.

14 (Applause.)

15 CHIEF VENEGAS: My apology for having to
16 leave a little bit early, no disrespect, but I
17 have a son that's graduating from high school, and
18 I have to get back for his ceremony tonight, as
19 I'm sure you understand. I would never forgive
20 myself, and neither would his mother forgive me if
21 I -- I'm sure he would.

22 Lt. Governor, thank you for bringing to
23 the stage of public discussion and debate this
24 very important topic. And, really what I believe
25 to be, the creation of a desired future for us,

1 the people of a great state, working, playing and
2 really enjoying in harmony each other as one
3 California.

4 Let me say that racial profiling, the
5 discussion allows us really to discuss something
6 else. Profiling is a symptom. It's a symptom of
7 a greater problem that we keep biting around the
8 edges. And maybe that is what we have to do, is
9 bite around the edge.

10 And it's the differences of race,
11 religion, lifestyle, disability or other
12 conditions that makes us different, and in the
13 eyes of someone else, less than equal.

14 The Sacramento Police Department does
15 not have a policy of racial or bias profiling.
16 Nor does it condone a law enforcement practice of
17 racial or bias profiling by any law enforcement
18 agency or individual acting under the color of
19 law. That would violate the civil rights of any
20 individual.

21 Our definition, and there is some real
22 differences on the definition of racial profiling,
23 is the routine use of race as a negative signal
24 that would cause a police officer to act or react
25 with suspicion.

1 Let me share with you the history of the
2 Sacramento Police Department as it comes to our
3 data collection project. And let me begin with a
4 correction. Albeit, there was an article in The
5 Bee yesterday talking about our project. Actually
6 we'd been in the design of this project for quite
7 some time.

8 In late February as part of a major
9 accountability system I presented to our city
10 council a number of initiatives that would move
11 forward the agency in our mission which is to work
12 in partnership with the community, to protect life
13 and property, and to solve neighborhood problems
14 so as to enhance the quality of life of our
15 citizens.

16 And at that time it was my personal
17 belief that if any segment of my community
18 believed that they were not receiving a
19 professional, unbiased level of law enforcement
20 service, that it was incumbent upon us to insure
21 that we removed whatever biases or obstacles exist
22 to that delivery of professional unbiased service.

23 At the direction of the city council at
24 that time, in late February, they did ask us to do
25 some work. Because one of the items that I

1 proposed at the time, and I sensed some debate
2 take place here today, I did not want to engage in
3 the collection of information for the sake of the
4 collection of information. And the collection of
5 raw data without a discussion of some key public
6 policy would be a no-win situation for everybody.

7 And so at that time I requested of the
8 council the authority to hire an agency outside of
9 the City of Sacramento to do the analysis of the
10 information that we were going to collect.

11 I did not want anyone in the community,
12 or worse, the members of the department, to be
13 finger-pointing about the outcomes of that
14 information.

15 The council agreed and they asked us to
16 go out and do good things. To do some outreach
17 with the community; do outreach with the rank-and-
18 file; to take a look at the data collection
19 elements. Because the form that we had proposed
20 had about 20 elements actually, more than what was
21 being proposed by the American Civil Liberties
22 Union in their project.

23 I was happy when the American Civil
24 Liberties Union and MALDEF were present in support
25 of our collection project at that time, agreed to

1 participate in the outreach to the community.

2 At that time we then went out and
3 conducted approximately eight community meetings
4 on our own. The NAACP, the American Civil
5 Liberties Union and other community-based
6 organizations as well, conducted forums in
7 Sacramento, and my staff was present to receive
8 input on the elements that we were going to be
9 covered.

10 What was really good, as the Chief, was
11 my meetings with my staff. I had asked Hubert
12 Williams to join me from the Police Foundation in
13 this effort. And in our meetings with the rank-
14 and-file, not a single negative statement was made
15 about data collection. Quite the opposite, they
16 wanted to participate. They wanted to be, if you
17 will, active participants because they believed
18 that if anybody was doing that, they wanted to
19 exorcise that person from the organization.

20 As you folks know, SB-78 was vetoed by
21 the Governor. He selected, for his own reasons,
22 the California Highway Patrol, the City of
23 Sacramento, and the City of Los Angeles, and he
24 directed the CHP, but he asked Sacramento and L.A.
25 to voluntarily collect the data.

1 Now, why, as I understand this,
2 Sacramento is the capitol and L.A. is the largest
3 city. Now he didn't select the capitol county or
4 the largest county in the state, but regardless,
5 in our community we decided to do it, although
6 L.A. chose not to.

7 We were disappointed, and I think
8 Michelle and the folks in Sacramento, that day
9 when he announced that -- Kevin Murray and the
10 Governor had announced. There was real enthusiasm
11 across the state that the legislation was going to
12 be passed. We hope that it occurs in time.

13 Let me suggest to you that as part of
14 the analysis what is important in the discussion
15 are the public policies that we have put in place
16 as part of community policing.

17 A recognition that in communities across
18 this country, especially large urban cities, we do
19 have neighborhoods in crisis. And whether we want
20 to acknowledge it or not, we have a large number
21 of our people of color that are crying for relief
22 to victimization of violent crime and other crime.

23 And somehow the analysis needs to have
24 the proper discussion about what are the outcomes
25 of some of the implementation that has taken

1 place.

2 I do also believe that accountability is
3 the key. I am known as just one heck of a hard-
4 nosed guy. I'm not afraid to fire people. And my
5 people know that if they falsify the information
6 they're going to have to answer to me. That's got
7 to be the key.

8 Now, if I may respectfully, Reverend, to
9 your point about the individual from Idaho. You
10 must also recognize that we have a lot of good
11 people, and that they don't go out there and do
12 things intentionally.

13 And unfortunately, having been the
14 victim of a reverse discrimination lawsuit, even
15 the individual who may not necessarily be worldly
16 on Los Angeles or Sacramento, if he or she happens
17 to be from Idaho, they have to be afforded an
18 opportunity to participate.

19 And I think that's the key. It's how do
20 we provide professional unbiased service. We are
21 very happy to set the tone, what I believe is, for
22 the country, with the help of ACLU, MALDEF, NAACP
23 and our community. And our results will be
24 public. And we look forward to sharing those with
25 you in the future.

1 Thank you, Lt. Governor.

2 (Applause.)

3 LIEUTENANT GOVERNOR BUSTAMANTE: Thank you,
4 Chief. And just to go along with the last
5 statement you made, I hired a press secretary from
6 Kansas City, and he's still a Chicano.

7 (Laughter.)

8 LIEUTENANT GOVERNOR BUSTAMANTE: It was hard
for

9 me to believe that there were any Latinos there,
10 but apparently there is. You like that one, huh?

11 Next we'd like to ask CHP Commissioner
12 Spike Helmick to come up, and to give us a
13 thorough statewide rendition of exactly what the
14 CHP is doing.

15 (Applause.)

16 COMMISSIONER HELMICK: Thank you very
17 much, Governor, Members.

18 I appreciate having the opportunity to
19 be here because quite frankly I've heard some
20 things that obviously possibly do not concur with.
21 I've heard some statements earlier this morning
22 which I know to be factually incorrect.

23 But as quick as I say that, I'm very
24 excited about being here, because this is a whole
25 topic that I have a great deal of compassion about

1 and interest in.

2 I am very pleased to probably be the
3 first individual to work with Senator Kevin Murray
4 almost two and a half years ago on this particular
5 topic. I think the Senator will so indicate when
6 he gets here later this afternoon.

7 Because I believe if, in fact, there is
8 a perception or reality that this occurs, we, in
9 the law enforcement business find it necessary to
10 step back and take a very close look at it, and do
11 everything internally possible to insure that it's
12 not occurring.

13 To that end there's a lot of things that
14 we, as an organization, have done. But I think
15 it's very important to preface our type of job,
16 and I'm referring to the California Highway
17 Patrol, is somewhat different than local law
18 enforcement. So I want to speak only for the
19 Highway Patrol and not the local law enforcement
20 on the very nature of their job.

21 It's a different type of job. It would
22 be improper for me to try to address it. We have
23 been keeping statistics, and I can tell you, as
24 Chief Venegas did, that is 100 percent of the
25 support of our rank-and-file, as well as all of

1 our managers.

2 I will differ a little bit when Mr.
3 Venegas said we were directed to do it. We were
4 actually keeping the statistics for about nine to
5 ten months earlier than the Governor directed us
6 to do, and I'll get into that in just a moment.

7 We actually were starting to keep some
8 form of statistics back as early as January of
9 that particular year.

10 I do think it's very important to keep
11 the statistics. We do have our first report done.
12 Our first report will cover the period of July of
13 '99 through the first of May of this particular
14 year.

15 In addition to that report, which is now
16 going through the proofing process, and will be
17 submitted to Governor Davis, we have sent out 433
18 letters to every police chief, sheriff and law
19 enforcement agency in the State of California,
20 under my signature, asking them to participate in
21 a voluntary collection of data.

22 To date we have received some 55, and
23 I'd actually give you a little wiggle room,
24 because it varies from day to day, of positive
25 responses back from the people that have agreed

1 that they would provide and collect data.

2 We've also given them an opportunity to
3 include in our report their data. I'm sorry to
4 say the number of 55 is not what we had received,
5 so our report, the first one, will have all of our
6 statewide data. And the last I've heard it will
7 be some results from 15 to 16 of the local law
8 enforcement agencies that have submitted their
9 data.

10 Hopefully, in future years, and it is
11 our intent to continue to do this data collecting,
12 that those individuals from the various cities
13 will submit that data so we can compile it into
14 one document which will be much easier for
15 everyone to digest and to read.

16 I do want to go on record and tell you I
17 think, for the most part, the vast majority of law
18 enforcement officers find this as reprehensible
19 and unacceptable as I do, not to suggest,
20 obviously, that some of this stuff has not
21 occurred. I think we all know it has occurred.
22 And I think it's very important, if nothing else,
23 the dialogue that we're undertaking today, the
24 dialogue that Senator Murray began with his
25 legislation, it's going to be very beneficial to

1 all of us.

2 I think anytime people of different
3 views or at least opposite thoughts on a topic,
4 sit and discuss the net results, we all become
5 better educated, and hopefully we can all work
6 collectively to resolve it.

7 I have seen the results of our first
8 year. The data we kept actually were in six or
9 seven different categories. We broke it down into
10 five ethnic makeups. We also kept it as to
11 written citations, verbal warnings, the number of
12 assists that we gave people on the freeways, the
13 number of accidents, the number of searches, and
14 the number of verbal type warnings.

15 Again, I do not want to obviously
16 preempt my boss, the Governor, and I'll certainly
17 wait. But I can assure you, seeing the data I'm
18 very pleased with the data. You're going to find
19 it's pretty much nearer the makeup of the State of
20 California, which I assumed it would.

21 Saying that does not mean some
22 individuals may not be a problem. This has given
23 us the data to look at certain individuals and to
24 deal with those particular problems. I can tell
25 you the one category as it relates to the Highway

1 Patrol that is high, and that's the white male.
2 About 56 percent of our traffic citations are
3 given to white males. And it's about 50.2, if I
4 understand, the Department of Finance statistics,
5 of white males.

6 There's a lot of different reasons, we
7 have a lot of different psychiatrists and
8 psychologists looking at this data to try and
9 analyze it for me. Time will obviously prevail to
10 see what that's all about.

11 Having said that, something else that we
12 have worked with Senator Murray on, and it is in
13 our budget and I'm kind of excited about it, I
14 believe Governor Davis is going to leave it, it's
15 about \$10 million. And it's \$10 million, a
16 portion of it will go to us for the cost of
17 collecting the data and doing this annual report.

18 But it's going to allow me to issue or
19 offer to local law enforcement a mini-grant, a
20 grant of money, if they will willingly compile
21 this data and submit it to us.

22 I hope to be able to offset some of the
23 concerns by some of the administrators by simply
24 saying they did not have the resources or the
25 availability to keep the data. Then I will have

1 this money that I can issue these grants to them,
2 to buy the computerization, or to offset some of
3 their costs. Hopefully that will alleviate some
4 of their concerns and we can bring more people on
5 line in keeping the data.

6 The Assembly and the Senate, the \$10
7 million in our budget. The Governor has indicated
8 most likelihood he will sign it. That was mainly
9 with the effort of Senator Kevin Murray. So we'll
10 certainly know here by July 1 if it stays there.

11 Probably at that time we'll be talking
12 to a lot of you folks here; we're going to need to
13 get some ideas as to what criteria we develop as
14 we go on to various groups to ask them to do it.

15 But I do know some of the smaller
16 agencies in the state have made it clear to me
17 that they were not adverse to doing it, they felt
18 the costs of keeping the data would be
19 unacceptable in their budgets. So hopefully that
20 will stay in and we'll be able to solve it.

21 I did want to take just a couple minutes
22 to explain a couple of the things that we are
23 doing, which I think all works towards this whole
24 issue. And the issue is to try to be sure that
25 every person, disregarding gender and/or race, is

1 properly and fairly treated.

2 And I think our friend from San Diego
3 mentioned we do -- you know, by state law there is
4 a percentage for bilingual. We have lowered that.
5 The percentage is basically if 5 percent of the
6 people in your population and area speak a
7 different dialect, we, in the State of California,
8 offer a monthly bonus. We've reduced that to 2.5
9 percent.

10 So, if there's 2.5 percent of the folks
11 in the group that speak, for example, Spanish, our
12 folks that can pass the fluency test do get a
13 bonus for that.

14 We, as an organization, have also
15 extended that. The state has established that for
16 our officer ranks, we've extended it to all our
17 nonuniform people, all of our clerical staff and
18 all of our dispatch staff.

19 And we have about 900 people now on a
20 monthly basis receiving the bonus for being able
21 to speak a particular dialect --

22 (End tape 2B.)

23 COMMISSIONER HELMICK: We have created a
24 community outreach program. That community
25 outreach program is commanded by Lt. Steve Bell.

1 And Steve's effort is to try to get out into the
2 community to try to ascertain as much as he can
3 from the community what they perceive our problems
4 are, and what we can do to better serve the
5 community.

6 Some of the things he has done, for
7 example, is in the Bay Area he's worked with the
8 NAACP where we actually have an educational
9 project where future officers are being taught,
10 through the auspices of a group effort between
11 ourselves and the NAACP, to insure that those
12 individuals can pass our exam and we can get a
13 viable input of people into the department.

14 We, too, have an outreach group, a
15 citizens advisory group, that advises me, as well
16 as the department, on a wide breadth of topics.
17 That group is chaired, and a majority of the
18 individuals are of minority classification. And I
19 think they've been very helpful as they review our
20 policies and procedures and give their perspective
21 to insure that we are trying to do the right
22 thing.

23 All in all I think this discussion is
24 good. And I think what Senator Murray has done is
25 good. At the very least we have brought a topic

1 that is something that has been talked about for a
2 long time in the law enforcement community, we
3 have brought it to the forefront. We've had
4 meetings such as this.

5 And, again, I think anytime that any of
6 these problems are addressed in a public forum,
7 the net results is that we will all inherit and be
8 improved by it. And I look forward to continuing
9 that improvement project.

10 Governor, I thank you for giving the
11 chance to be here today.

12 (Applause.)

13 LIEUTENANT GOVERNOR BUSTAMANTE: Thank you,
14 Commissioner. Thank you for making time in your
15 schedule. I know you're very very busy, and
16 you're all over the state. So, thank you for
17 making the time.

18 Next we have Ronald Davis, Captain with
19 the Oakland Police Department. Welcome.

20 (Applause.)

21 CAPTAIN DAVIS: Let me start by saying
22 to the Commissioner, put Oakland down for one of
23 those grants.

24 (Laughter.)

25 CAPTAIN DAVIS: I know to follow after

1 lunch is very tough, so if you can kind of stretch
2 in your seats a little bit, we'll kind of
3 regenerate and get some energy.

4 But let me start by saying that justice
5 is blind, it is truly blind. And if you believe
6 that I've got a car outside to sell you. Justice
7 is far from blind. In the minority community
8 justice has perfect 20/20 vision. It can
9 distinguish race, ethnicity, economics, social
10 conditions. It can determine everything it needs
11 to determine.

12 And it is not blind because justice is a
13 system of people. As long as you have people
14 you're going to have basically biases. These are
15 biases and stereotypes that people bring to the
16 job, and unfortunately they're there on the job.

17 So, for me, with the issue of racial
18 profiling, and I have to agree with Chief Venegas,
19 it is not the problem, it is a symptom. It is a
20 manifestation of a larger problem at hand. And
21 that is bias-based policing.

22 And I'll define it in my own terms that
23 bias-based policing is the act, intentional or
24 unintentional, of applying or incorporating
25 personal or organizational biases and/or

1 stereotypes as the basis or factors considered in
2 decision-making, enforcement actions or activities
3 for the general administration of justice.

4 If you look at recent incidences of
5 racial profiling, excessive force, ranging from
6 the Taisha Miller (phonetic) case in Riverside to
7 the Dallo (phonetic) case in New York, to the
8 shootings of unarmed minority suspects, to the
9 shootings of off-duty minority officers, this is
10 not about training. You don't have white officers
11 getting shot off duty. This is about bias. If
12 you have the bias then you're going to react to
13 it.

14 But I must say this, the officers that
15 comprise law enforcement are outstanding men and
16 women. These, in most cases, are subconscious and
17 unintentional.

18 The question, if you look at the similar
19 justice, and if I recall right, there's a lady
20 with a blindfold with the scales. If you look at
21 that it does not suggest that she's blind. It
22 suggests that she's blindfolded. And that's what
23 justice has to be. You just can't be blind
24 because you have biases already.

25 We have to come up with systems that

1 serve as blindfolds, so that we protect ourselves
2 from ourselves in using personal biases when
3 exerting the authority of power of our office.

4 The question is how do we actually
5 create blindfolds. And I will submit this, we've
6 talked about it a little bit, but not as much,
7 it's all about leadership and accountability.

8 Another group that this Commission
9 should bring to you are the ICMA, the
10 International City Managers Association. These
11 are the ones who hire and fire chiefs of police.
12 That's where the buck stops, is with the chiefs of
13 police and administrators.

14 You should not have to mandate data
15 collection, although I do agree, data collection
16 is essential. You should have CEOs, chief
17 executive officers, should do it because they have
18 to do it, because they want to do it, because you
19 hold them accountable for it. And if they don't
20 want to do it and address problems of perceptions,
21 then replace them.

22 This is about leadership, the
23 accountability systems. For example, recruitment.
24 And I understand where the person was going with
25 the Idaho I guess ideology. But if a person does

1 lack experience and diversity, then maybe hire
2 that person under internship program. So where
3 they can actually mingle with and learn diversity
4 on their job without carrying a gun and being in a
5 position to exert force at this stage.

6 Also, without the leadership you have a
7 clear purpose. What is the purpose of the
8 organization? If you don't have defined a
9 purpose, and the chief of police is not making it
10 clear what he or she wants, then you leave it up
11 to the officers to define it, themselves. Which
12 means community policing could be everything from
13 making a lot of arrests to what some people call
14 it, hugging trees.

15 It has to have a clear purpose as
16 defined by the chief of police. And if they don't
17 have that, then the officers will find one,
18 themselves.

19 So, once you define a purpose, then you
20 hire people that will help you achieve that goal,
21 whose values match the values of the organization.
22 That's what recruitment is about. You do whatever
23 is necessary to obtain those people. Whether it
24 is signing bonuses, recruitment. we need to start
25 acting like a business, not government. And if we

1 were a business we would be bankrupt,
2 unfortunately.

3 Promotion. You need to promote people
4 that are going to provide courageous leadership,
5 do the right thing for the right reason. Don't
6 worry about being popular, be right. Right
7 decisions are not always popular. And popular
8 decisions are definitely not always right.

9 Have the courageous leadership. But if
10 you have the purpose, you have the organizational
11 values, then you promote those people that live up
12 to that standard.

13 Now you have supervisors who are, in
14 fact, providing strong, courageous and ethical
15 leadership. You have to have diversity in the
16 organization. But I must say this, the race of an
17 officer does not make a good officer. But the
18 diversity of the organization does make a good
19 organization. There's a big difference.
20 Diversity is definitely needed.

21 The other thing is assignments. You
22 have some assignments in which you are forcing
23 officers to stay in a negative environment for
24 extended periods of time, narcotics, certain
25 street enforcements, where all they see are

1 suspects and criminals.

2 And depending on the demographics of
3 that neighborhood, it might be suspects and
4 criminals of one race. Three, four years of
5 dealing with nothing but 1 percent of the
6 population 98 percent of the time has now formed a
7 bias.

8 The academy, I agree with the gentleman
9 earlier today, the academy doesn't teach bias.
10 But law enforcement has such a formal
11 indoctrination process that it can actually change
12 the values of people that their mothers and
13 fathers have spent a lifetime building. And they
14 can do it within the first 12 months.

15 And it is not limited to white officers.
16 Black officers will profile as much as white
17 officers. Once again, it goes back to the
18 accountability. What are you willing to do, for
19 the chiefs. You have to step up and accept
20 accountability or step away from the stars.

21 The other area is discipline.
22 Discipline has to be consistent. And it cannot be
23 done with the potential of -- and I know you have
24 to balance things like police officers
25 associations and unions. Bring them to the table,

1 work with -- always work with. But if you're
2 going to manage, be the person in charge.

3 Leadership and supervision. Field
4 supervision. What is your ratio? What kind of
5 field supervision? What message are you sending
6 to the troops?

7 Because even if the chief, the
8 commanders, the captains can come up with every
9 great idea known to man or woman, and if the
10 sergeant of police goes out in the field, and just
11 simply raises an eyebrow when you talk about data
12 collection, there goes the program.

13 Sergeants field training officers have
14 more power than we ever imagined. But we promote
15 them without even thinking about it. So it goes
16 back to promotion systems. We must have
17 leadership and supervision.

18 Now we talked about the establishment of
19 values. The gentlemen from POST mentioned about
20 ethics class. There's no such thing as an ethics
21 class. Ethics has to be incorporated in every
22 class that you have.

23 I went to recently, with the Department
24 of Justice, a panel discussion. They were talking
25 about shootings of basically all three officers

1 were in Providence, I believe, Rhode Island.
2 Shooting of an off-duty minority officer. We're
3 talking everything from simulated trainings to all
4 types of training. And I had to keep reinforcing
5 to them that if it was as simple as shoot/don't
6 shoot, with shooting skills, then you would have a
7 bunch of white/black/Hispanic, all kinds of off-
8 duty cops would be getting shot. But it's not.

9 And until we start assessing decision-
10 making and identifying all those decisions based
11 on biases, then we will have excessive force,
12 racial profiling, race-based stops, which all
13 comes under the heading of bias-based policing.

14 And so that's what we have to focus on.
15 Ethics has to be a part of everything that the
16 organization does. It has to go from the top of
17 the chain all the way down to the rank-and-file,
18 itself. In every class, in every roll call, in
19 every message, zero tolerance, war on drugs,
20 scorched earth, blacklist, all of that has to go.

21 You are sending indirect messages to
22 your officers that we are at war. And
23 unfortunately, it's always limited to the minority
24 community.

25 I have to really stress, and I'm getting

1 somewhat kind of heated with this, it goes to
2 leadership and accountability. Chiefs are walking
3 around here basically saying, it costs too much.
4 I do not understand that. We have so much
5 statistics right now, I can tell you from an
6 agency, how many arrests we've made, when we made
7 it, how we made it, what time of the day we made
8 it. But I cannot tell how many people are
9 stopped.

10 If 3 percent of my stops are resulting
11 in arrests, forget the right or wrong, as a
12 manager that's totally inefficient. The Lt.
13 Governor said it, himself, if it was a business
14 and I was a manager, and if 3 percent of my
15 efforts produced the product I would be a manager
16 about a minute and a half before I got replaced.

17 Why is law enforcement exempt? We
18 should not be exempt. We have to establish those
19 systems that create blindfolds for law
20 enforcement. But it cannot be discretionary
21 blindfolds. It's not something that also has a
22 time to stop and say, oh, let me check my biases.
23 It has to be automatic. It must be automatic. If
24 it is not, then it will be, once again, arbitrary,
25 and it will still be based on biases again.

1 So, I say that our focus has to be --
2 data collection is important, training is
3 important, but this is a complex problem. It
4 addresses accountability systems, biases we bring
5 from society, from what we learn on the job. It
6 addresses training, promotions, recruitment,
7 hiring.

8 And what is needed right now is
9 basically a complex, comprehensive response. So I
10 really want to stay away from separating this
11 debate about whether or not to collect the data
12 and what we're going to do. It all needs to come
13 together at one time.

14 And since I got the warning of five
15 minutes, another thing that was not mentioned was
16 the community part of it. If you truly have
17 community policing, you do not have to validate
18 factual data that something's occurring.

19 If you are embracing a community
20 oriented policing, the mere fact that you perceive
21 that it's happening means that I, as an executive,
22 have only but one responsibility. To address it,
23 correct it, and let you know what I'm doing about
24 it.

25 I don't need any statistic to tell me

1 that. If you feel it, and overwhelmingly in the
2 minority community you're telling me it's
3 happening, then I need to respond to it. Period.
4 That is community oriented policing.

5 Also, what we have to do with our
6 response to bias-based policing is to engage the
7 community in finding the solutions. We have to
8 educate. Someone said that earlier, education to
9 the public. A part of accountability is for the
10 customer to know what is right and what is wrong,
11 or what they can accept, or what they don't have
12 to accept.

13 There is one program that nobody has
14 worked with, with the NAACP, and that is The Law
15 and You Program, sponsored by Allstate. And it's
16 short, and it's a brochure that the Commissioners
17 have, it is a program that talks about -- I
18 believe Chief Armstead mentioned that San Diego
19 had something similar -- the rights and
20 responsibilities.

21 Because it is twofold. It's an
22 interaction. An interaction involves two people.
23 And sometimes responses dictate response, if you
24 will. Or actions dictate response.

25 It talks about the rights and

1 responsibility of those being stopped. It also
2 gives a brief outline of what is officer
3 misconduct, and how you can respond to it.

4 Agencies can take this and assert, or
5 have a complaint process. Once again, this goes
6 to the leadership issue that if you're engaging
7 your community with diversity training, and
8 diversity training cannot just be about how to
9 respect diversity, it has to be about how to
10 manage diversity. Especially for managers. You
11 can't just respect it, you have to manage it to
12 where you get the most benefit from it.

13 But when you have the training it must
14 engage the community. They must understand
15 exactly what is acceptable, what is not, and what
16 they can do about it and have confidence that
17 you're going to respond.

18 I do not know what's going to happen
19 with the bill, if they're going to change it, as
20 far a data collection. But I would urge and
21 strongly recommend to every chief of police or
22 administrator in the state, if you don't collect
23 data for any other reason, collect it because it
24 will instill public trust in your agency.

25 You must display that you are willing to

1 take an introspective look at yourself; that
2 you're willing to open the books; and accept that
3 the worst thing that could happen by collecting
4 data is unfortunately, god forbid, you might learn
5 something.

6 Thank you very much.

7 (Applause.)

8 LIEUTENANT GOVERNOR BUSTAMANTE: Amen. Thank
9 you, that was a wonderful presentation.

10 Next we have Sunny Lee, the Program
11 Manager for the Tools for Tolerance for Law
12 Enforcement Program at the Simon Wiesenthal Center
13 Museum of Tolerance.

14 (Applause.)

15 MS. LEE: Thank you, Lt. Governor and
16 Commissioners, for inviting us here to share with
17 you some of the work that we are doing at the
18 Museum of Tolerance.

19 You may have seen me nodding my head
20 during this last presentation. I'm really
21 encouraged to hear that we are on the right track
22 in some of the planning for our future programs
23 and the program that we are doing at the museum.

24 I think we can all agree that the issue
25 of racial profiling, whether it exists or not, is

1 a moot point. We all know it does exist. And I
2 had the occasion to ask officers during my three
3 and a half years there about profiling. Does it
4 exist, does it not exist, and almost everyone will
5 acknowledge that profiling does exist.

6 But they will also argue that profiling
7 is based on experience and a necessary part of law
8 enforcement. And I wasn't going to go blue in the
9 face arguing with them the pros and cons of
10 profiling.

11 However, I think the crux of the matter
12 is it's what the officer chooses to do with that
13 profile. How the officer acts upon that profile.
14 And if that is the case, we, as a training
15 program, want to be a part of the officer's
16 experience that will determine his or her
17 actions. We want to infuse that experience
18 with lessons in diversity, sensitivity and
19 tolerance.

20 Part of our training program is to
21 emphasize that respect, respect from the
22 community, is a linchpin to effective law
23 enforcement, and can be a tool in modern policing.

24 The current Tools for Tolerance program
25 began in 1996 as a professional development

1 program for front-line professionals, doctors,
2 lawyers, municipal employees, health care workers,
3 corporations, and about 16,000 public school
4 educators have all taken part in the program.

5 But it has been law enforcement that has
6 been on the vanguard of this training.
7 Recognizing early on the value of this kind of
8 experiential learning, they have come in numbers.

9 We have seen in these last three and a
10 half years about 30,000 members of law enforcement
11 statewide and nationally. We have worked with
12 over 180 different agencies from as far north as
13 Eureka, California, all the way down to San Diego.
14 And apparently we trained more officers than all
15 the academies combined in one year.

16 Now, the gist of the program, then, is
17 to look at what can happen to a community when
18 values such as mutual respect and personal
19 responsibility fall by the wayside in both the
20 historic and contemporary context.

21 One of the examples that we use, one of
22 the primary examples we use is the holocaust. It
23 is an extreme example of what can happen. But in
24 addition to that, we also get more subtle examples
25 of power of words, prejudice, bigotry and the

1 power of individual choice.

2 We try to promote self awareness. What
3 our program is trying to do is impact values and
4 influence the totality of the officers'
5 experience.

6 Now, I don't stand here telling you that
7 the museum is a panacea for all of society's ills,
8 but it is a place to start the dialogue. We can
9 help frame the discussion, give information and
10 certainly share resources.

11 There are a couple of things that are on
12 our plate that we are developing that I think can
13 address some of these issues that have been
14 brought up.

15 First of all, we hope to launch an
16 advance initiative starting next year for command
17 staff. If, indeed, part of the problem is
18 addressing the institutional environment, it does
19 start with the leadership. So we'd like to launch
20 a program for an advancing issue for command
21 staff, lieutenants and above, in a two to three
22 day program that addresses a variety of issues.
23 Not only diversity, but also the evolving and
24 changing role of law enforcement, and what tools
25 can be used to more effective policing.

1 Secondly, we've talked a little bit
2 about opening dialogue with the community. One of
3 the programs that we are promoting is bringing
4 stakeholders of the community together to discuss
5 these very type of issues.

6 We've advanced several programs, what
7 we've been calling law enforcement partnership
8 with educators. We've brought in communities to
9 start discussing issues.

10 We know that the problems in our
11 communities are more than can be handled by any
12 one group, but indeed collaboration and
13 cooperation are the key.

14 So we have an institution, a place where
15 that dialogue can take place. And like I
16 mentioned, our LPS program, as we've been calling
17 it, has opened eyes. Because it gives officers
18 the opportunity, as well as educators, to see that
19 their jobs are more similar than they are
20 different.

21 And thirdly, I'd like to just make a
22 comment about this ethics training. Part of our
23 program we give a workshop on the evolving role of
24 law enforcement. And at the end we talk a lot
25 about the law enforcement code of ethics.

1 And one of my trainers was telling me
2 that after this workshop a participant came up to
3 him and told him, you know what, I was really
4 offended, because I thought you were talking down
5 to us. Why do we need to cover this law
6 enforcement code of ethics.

7 And my trainer replied, well, let's go
8 back. Are you offended if the department mandates
9 that you go and qualify shooting every other
10 month. Of course not. Well, like shooting,
11 ethics is a perishable skill. It is something
12 that needs to be visited and revisited and
13 revisited again. It is something that needs to be
14 practiced.

15 And so that is what we are trying to do
16 at the museum, is giving the opportunity to talk
17 about values and ethics, about responsibility,
18 choice and the power of words. And these are just
19 some of the programs that are going on at this
20 time.

21 Thank you very much.

22 (Applause.)

23 LIEUTENANT GOVERNOR BUSTAMANTE: Dr.
Washington,

24 would you like to add anything? Please, you're
25 more than welcome.

1 Again, Dr. Washington.

2 (Applause.)

3 DR. WASHINGTON: Just a statement.

4 Unlike racial profiling, that the driving while
5 black or driving while brown, the current scandal
6 that's going on now in Los Angeles, coming out of
7 the Rampart Station, there is some evidence, there
8 are some statistics.

9 We believe that the police have the
10 evidence and that they know about it. If they
11 don't, we have it. And for two years we have
12 tried to share that information with the police
13 department, with the FBI, with the U.S. Attorney
14 General's Office to no avail.

15 And so if there's one thing that I would
16 like to say to law enforcement people or whatever
17 business you're in, it pays to pay attention to
18 what the stakeholders have to say.

19 Many times it can be a rewarding and
20 helpful experience if you listen to people who
21 have information, who are out in the trenches, who
22 know what's going on, who talk to people.

23 And as we have done, we've had two
24 police misconduct hearings, and we have in our
25 possession, pictures of people who have vicious

1 scars from dog bites. We have pictures of people
2 who were shot many many times, five or six times.
3 People who have said to us that they refrained.
4 And we saw the supposedly evidence that was
5 planted.

6 And so we have, we really have a long
7 way to go with racial profiling. It, as you know,
8 as you can see, it has certainly spilled over into
9 law enforcement in the Los Angeles Police
10 Department. And whatever we do, I do think that
11 we have to understand that it is more than
12 collecting data. It's, as has already been said,
13 what happens to that data and how it's used.

14 And hopefully, even the Rampart
15 situation will be helpful to legislators and to
16 us, as citizens, as we look at this problem of
17 driving while black or driving while brown.

18 (Applause.)

19 LIEUTENANT GOVERNOR BUSTAMANTE: Thank you.
Two

20 great panels. We have a couple of questions from
21 the audience, but if there are members of the
22 Commission who would like to start? Yes,
23 Professor Saito.

24 COMMISSIONER SAITO: Well, first as an
25 employee of UC San Diego, I'm very pleased that

1 this event is taking place on our campus.

2 Also, as you walk around the campus, and
3 I hope you enjoy your visit here, and clearly UC
4 San Diego is one of the great research
5 universities in the United States, but as you walk
6 around our campus do your own informal survey of
7 our student body. And you'll find that it is one
8 of the least diverse of all the college campuses
9 in California.

10 And considering the very fine study by
11 the former President of Harvard University,
12 Derrick Banque (phonetic) on affirmative action,
13 and all the positive benefits that affirmative
14 action can bring, what they might consider is that
15 UC San Diego and the other UC campuses can be a
16 better college and give better service to the
17 State of California and to society if we can bring
18 back affirmative action.

19 But let me get off my soap box and maybe
20 that's an issue for another day and another
21 meeting.

22 But I think the phrase driving while
23 black or brown is very instructive and it
24 highlights an incredibly important issue. But one
25 of the things that it ignores, though, is how this

1 affects Asian-Americans.

2 And considering our state, the State of
3 California, and other states such as New York,
4 which incredibly large populations of Asian-
5 Americans, we should consider that.

6 For example, a survey in New York City
7 showed that for Asian-Americans the biggest
8 perpetrator of hate crimes was the New York City
9 Police Department. Ranging from racial slurs to
10 wrongful death cases.

11 Coming back here to the State of
12 California, several years ago in the northern part
13 of our state, an Asian-American man who was very
14 distraught, drunk, late one night was standing in
15 front of his house waving a stick in a very quiet
16 suburban community such as La Jolla.

17 The police officers who responded to the
18 call shot and killed him. Their explanation:
19 Well, we thought he knew kung fu. Now, that's a
20 tragic case of racial profiling. Or in the case
21 of Asian-American young men who are profiled as
22 members of gangs.

23 But also at the same time I think we
24 have to consider that Asian-Americans, as with
25 across the country, such as in Little Tokyo in Los

1 Angeles or Chinatown in New York City, have fought
2 very hard, have supported having police
3 substations in their communities.

4 Because they are, Asian-Americans are,
5 as with others, are very concerned about having
6 safe neighborhoods, about the issue of crime.
7 But, as with other Americans, we're also very
8 concerned about having professional and bias-free
9 policing, law enforcement.

10 And so the issue is how can we have safe
11 neighborhoods, good law enforcement without having
12 gender and racial bias.

13 And I was just wondering if Ms.
14 Alexander from the ACLU knew of any studies that
15 looked at racial profiling and how it affected
16 Asian-Americans.

17 MS. ALEXANDER: (Inaudible.)

18 LIEUTENANT GOVERNOR BUSTAMANTE: (Inaudible.)

19 SPEAKER: Thank you. I wanted to ask
20 Capt. Davis, the Assistant Chief from San Diego,
21 and Sunny, as well, what constitutes a good
22 diversity training.

23 We hear a lot about that, but what, in
24 your opinion, what makes up a good diversity
25 training program?

1 CAPTAIN DAVIS: An opportunity to do
2 some selling of NOBLE. As part of the community/
3 policemen consortium we work with other agencies
4 like IACP, PERF, National Sheriffs Association, to
5 come up with human diversity training that also
6 has a community engagement.

7 And in an environment where people are
8 frank about the stereotypes, where there's an open
9 environment, you can sit around and actually throw
10 those stereotypes on the table, find out why we
11 have them, what we're going to do about them, we
12 can learn from each other. And if nothing else,
13 walk away with a better understanding of who we
14 are.

15 I think also for managers is how to
16 manage diversity. And for people to be aware. So
17 whatever diversity training that we have, and I'm
18 not saying it's the best one, it has to have
19 community engagement and it has to be open and
20 frank to where people can actually throw out those
21 biases and stereotypes without feeling there's
22 going to be some type of retaliatory action, or
23 some type of punishment.

24 So, without that, when you use the word
25 diversity, just within the culture of law

1 enforcement, you will basically just turn off
2 every officer that's sitting in that row. So you
3 also have to worry about the presenter of the
4 information, who presents the information.

5 And sometimes when you lose law
6 enforcement, and they already have certain
7 credibility to establish, and then you partner
8 with the community, you partner with maybe those
9 in the academic role, then it's a lot better than
10 if you just bring an outside consultant in and
11 force-feed information to the officers that really
12 become accusatory, that you are a bunch of
13 racists, you don't understand black people. And
14 if you do that you've lost them.

15 So, it has to be really a mutual
16 engagement. Otherwise I think it's totally
17 ineffective.

18 LIEUTENANT GOVERNOR BUSTAMANTE: Cruz.

19 MS. LEE: I agree --

20 LIEUTENANT GOVERNOR BUSTAMANTE: Go ahead.

21 SPEAKER: I agree with the Captain.
22 What we found at the police department is that
23 when you have training that stems around
24 scenarios, real live situations that people may
25 get involved in, scenario training where they are

1 very -- these scenarios are very meaningful,
2 scenarios that people have probably experienced
3 sometimes during their life span. That seems to
4 really get the message across quite well.

5 And I also agree that it needs to have
6 some type of a community component where you get
7 ideas from the community, and actually bring
8 people in, well known people from the community
9 that actually do training. And then you need to
10 train your own trainers inside your department or
11 inside your organization.

12 As the Captain said, the trainers are
13 very important. You can bring someone in from the
14 outside that can turn them off, but if you have
15 some very well respected people that are good
16 trainers inside, and you can train some trainers
17 to deliver the message, then I think you'll have a
18 very strong program.

19 SPEAKER: Personally, I don't think that
20 we should limit cultural diversity training to a
21 training. I see it something that is ongoing.
22 That our program is just the beginning.

23 We need to encourage the officers to go
24 out and find other training that best suits them
25 for their community. I know the work that you do,

1 that you come down and work with Sunny about, I
2 think that was essential. And we're building on
3 top of what they experienced at the museum.

4 I don't see training as a beginning and
5 an end, but rather something that's ongoing. And
6 to me, that would be the most ideal.

7 CAPTAIN DAVIS: Can I throw one thing
8 out there? For police departments, it's kind of
9 (inaudible.) The Oakland Police Department we
10 test promotional exam every year and a half. And
11 right about three months before the promotion
12 cycle, everybody starts looking for those
13 policies, rules and everything that was passed out
14 over the last 12 months.

15 And so if agencies that do not have a
16 promotional system, even when there's a slot to
17 fill, they're losing probably the largest training
18 opportunity there is.

19 And so what you have to do, what the
20 chiefs have to do is if you're pushing diversity,
21 the troops have to see that you mean it, which
22 means it's in your testing process. It's in your
23 scenarios. It's in the oral -- in other words,
24 it's in your interview. And it's going to be in
25 your background, they look at you, what successes

1 have you had with managing diversity, working with
2 the diverse environment. And if you don't have
3 that then the chance of you getting promoted.

4 I've seen chiefs, who I think are very
5 courageous, even add things like if you're not
6 personally involved above and beyond what we're
7 paying you for, nonprofit organizations within the
8 community, don't expect to reach a level of
9 lieutenant or captain.

10 Because now you're starting to get into
11 senior management, executive management, and there
12 has to be more than 8:00 to 4:00.

13 So, I mean you have the training, I
14 agree, but it has to be every day in every way,
15 incorporating everything.

16 LIEUTENANT GOVERNOR BUSTAMANTE: Cruz.

17 PROFESSOR REYNOSO: I wondered what the
18 panel's reaction is to the following: I'm a
19 member of the U.S. Commission on Civil Rights.
20 While I've been in the Commission we've had
21 hearings in Los Angeles, Santa Rosa, including the
22 incident just mentioned, Miami and New York.

23 And each time that we've had hearings
24 it's as if we were listening to two different
25 cities. The mayor, the police chief, the district

1 attorney come on and tell us how everything is
2 hunky-dory; they've taken surveys, 85, 90 percent
3 of the people approve of what's happening.

4 Then we hear from the community,
5 particularly religious and community leaders. And
6 then sometimes hundreds, as in Santa Rosa, of
7 citizens who come forward and tell us all these
8 horror stories.

9 And I get the sense that we're listening
10 to completely different communities. Is that the
11 norm? What's going on?

12 LIEUTENANT GOVERNOR BUSTAMANTE: Anyone?

13 (Laughter.)

14 SPEAKER: I think we've got someone in
15 the audience, is if you have a situation where the
16 community has a totally different perspective than
17 that of the department, then I will guarantee you
18 you probably don't have an organization that has
19 adopted community oriented policing as a
20 philosophy.

21 And I don't mean the specific program.
22 Because what's happening is we've conditioned
23 throughout the years that it's we versus them;
24 that we're here to enforce, and we'll tell you
25 what we're going to enforce, where we're going to

1 enforce, how we're going to enforce. And I'll
2 even tell you when you're happy. And if you want
3 to question me about my success, I can throw you
4 some stats to show you I made a lot of arrests.

5 So I will go around, go to my city
6 council, go to my mayor, I'll go to my manager,
7 and I will throw down statistics that say I've
8 been very successful as a chief, because I've made
9 5000 arrests, recovered 20 kilos of cocaine.

10 But you're sitting in your house saying,
11 I don't see it, I ain't feeling it, your officers
12 are rude, and we're on two different pages
13 totally.

14 And so once again it goes to what
15 messages we're sending from the top down; what are
16 the priorities we set. And when you're developing
17 mission, vision and value statements, setting the
18 purpose, is the community part and parcel of that
19 conversation. If not, you're going in two
20 different directions.

21 PROFESSOR REYNOSO: I've thought of that
22 in somewhat of a broader sense, and that is that
23 the DA's, the mayors and the council people get
24 elected by 51 percent of the vote or more.

25 And so they see that a majority of the

1 people, in fact, are happy with the police. And
2 so they end up with little incentive to worry
3 about the minority, irrespective of race and so
4 on, that are unhappy.

5 So I've been worrying about it sort of
6 in a broader concept of our democratic society. I
7 don't know whether that makes sense to you or not.

8 The question that came from the
9 audience, by requiring individuals to ask officers
10 for their cards, isn't that putting the onus on
11 the victim, rather than a law enforcement agency
12 that could be possibly breaking the law?

13 Anyone? It was a general question.
14 Anybody want to --

15 SPEAKER: My understanding the new law
16 is going to (inaudible.)

17 SPEAKER: Well, again, I don't want to
18 speak for (inaudible.) My understanding, and I
19 know it would be our policy, they would not have
20 to ask.

21 The law, as drafted, certainly has not
22 passed, but it would provide some provisions that
23 on those occasions the card would be necessary.
24 So I would hopefully, in working with the Senator,
25 that that bill goes through so the person would

1 not have to ask for it.

2 That the criteria is in the law, the
3 officer would have to go ahead and make the offer
4 to the individual and not the reverse. The
5 citizen would not have to ask for the card.

6 LIEUTENANT GOVERNOR BUSTAMANTE: So that every
7 officer on every stop would hand a card?

8 SPEAKER: Yes, sir. I can assure you
9 we've already got them printed. All of our
10 officers will carry the cards. And as desired, in
11 fact the law is drafted, and if it goes through,
12 is if you don't issue a citation or another
13 written document that has the officer's name and
14 identifying number on it, the officer would have
15 to take the effort to say, and have a good day or
16 whatever, but here is my card.

17 So, I don't think the citizen should
18 have to ask for the card. I'm not saying that's
19 good or bad, but that's the way it's being drafted
20 to go through.

21 SPEAKER: I agree with that, that's my
22 understanding. I heard a debate about a week ago.
23 And the card is voluntarily given to the citizen.
24 And it must be, the officer is under obligation to
25 be sure and present that card. It's called now a

1 complaint card instead of a --

2 SPEAKER: But, you know, can I just add
3 on that, Governor, --

4 LIEUTENANT GOVERNOR BUSTAMANTE: Go ahead.

5 SPEAKER: -- the Doctor mentioned, and I
6 think that maybe goes to something Mr. Reynoso
7 indicated, too, and I've already heard this thing
8 as a complaint card.

9 I think that's very derogatory by its
10 very nature. And I would hope that we, all these
11 issues, trying to solve this problem, can -- I
12 know you didn't call it that, I've already heard
13 some officers.

14 We need to get past that. It's simply a
15 means of identifying that officer so the person
16 knows who stopped them. And if it keeps that
17 person a little hesitant to do some of the things
18 that are wrong, that's fine. That's perfect, if
19 it works.

20 And there's ways of getting around a
21 variety of different systems. I'd like to make it
22 not a positive thing, but a thing that's just part
23 of their job, to give that card. And not trying
24 to label it, because I think that would derogatory
25 for trying to help the problem.

1 SPEAKER: In the private industry they
2 do a lot of -- like when you call up certain
3 places they'll tell you your call may be monitored
4 for customer service.

5 For leadership issues in the field, if
6 we're counting on statistical reports to provide
7 leadership or supervision for rank-and-file
8 officers we've lost the battle.

9 By the time you give the report it's a
10 day late and a dollar short. You need leadership
11 which means we need to do a lot of audit and
12 inspections.

13 And as we proceed, if you have a policy
14 that mandates you hand out business cards, or that
15 you have to give a business card when you're asked
16 for it, then you need to send people out there as
17 most private agencies would do, that are your
18 agents, to insure that in fact when they got
19 stopped they got a business card, and that if they
20 don't you are very decisive. You make it clear.
21 And once again you send a message from the top
22 down, that this is exactly what you meant.

23 LIEUTENANT GOVERNOR BUSTAMANTE: Go ahead.

24 COMMISSIONER MORALES: As somebody who
25 lived and worked by the Rampart Station, --

1 (Laughter.)

2 COMMISSIONER MORALES: -- I don't know
3 if I should apologize or let you know that things
4 are moving along.

5 But as recently as the other day I was
6 at Cleveland by the marketplace, and I asked -- I
7 was at the station and asked a police officer for
8 a hotel, looking for the Radisson Hotel. And we
9 had a nice conversation and he gave me the
10 direction.

11 And after the discussion we had he told
12 me to have a good time in Cleveland, Mr. Miagi.
13 And he laughed, I laughed. And I said, thank you
14 for that congratulations, but I don't want to sign
15 any autograph for Mr. Miagi at this point in time.

16 Another anecdote I want to share is the
17 fact that I was pulled over for a smog test on my
18 car by this police officer, very nice, cordial;
19 pulled out my card, looked at it, saw my wife and
20 my family and said, what is a Japanese with a
21 Spanish name doing in this neighborhood.

22 And my wife touch me and says, don't be
23 rude now, be nice.

24 (Laughter.)

25 COMMISSIONER MORALES: So I was very

1 nice. I gave him a little history. And we
2 parted, I thought, cordially.

3 Another police officer by Venice Beach
4 in Los Angeles, Venice, I got stopped with young
5 people in my car, and apparently the police
6 officer thought I made the wrong U-turn, so we
7 sort of argued.

8 Finally he said, next time I catch you I
9 will throw the book at you. And I'm not going to
10 give you a ticket, so don't think that I am
11 picking on you because your name is Morales.

12 Three incidents that sort of give a
13 different flavor, and different ethnic police
14 officers, by the way, different colors. I don't
15 have to say what they are.

16 But, indeed, it is an issue and concern.
17 And in the Rampart issue division, I belong to one
18 community organization that is moving very nice
19 and slowly in relationship to the community/police
20 relation.

21 One of the things that we're doing in
22 that community at this point, with this group, is
23 with the relationship with the police and the
24 community. And as part of the Filipino-American
25 community, we have decided that one way is to

1 begin to also collaborate partnership related to
2 the police department.

3 So we entered into some kind of a
4 program, what we call Operation Linus. Linus in
5 Filipino means clean. Operation Neighborhood
6 Cleanliness. And a lot of other objectives we
7 have.

8 But behind that actually is part of our
9 perspective or move to begin to relate to the
10 police officers, and hopefully through this
11 operation cleanup then we, too, will help clean up
12 the -- quote, unquote, that department.

13 We have our intent to at least
14 cooperate. And with the new leadership we have
15 started to talk with the public relation Sergeant
16 Perez of the unit in Rampart Division.

17 And I think that is probably one of the
18 things that I would look for from our panelists
19 and down the road that give us some kind of a
20 direction, or mode of operation in such a way that
21 we do begin to have some of our institutions,
22 whether it's the police department or the L.A.
23 Unified School District, to take a look at the
24 diversity and unity of diversity in our community
25 so we can move forward in a better direction.

1 Thank you.

2 LIEUTENANT GOVERNOR BUSTAMANTE: Thank you.

3 Diane.

4 MS. CHIN: Thank you, Lt. Governor, --

5 SPEAKER: If I can make a comment on
6 that?

7 LIEUTENANT GOVERNOR BUSTAMANTE: Sure.

8 SPEAKER: I think it's real important
9 that we all look at the possibilities of each of
10 our responsibilities.

11 What I mean by that is that the law
12 enforcement profession is evolving and changing,
13 moving towards different directions, as is a lot
14 of society. Is that we should -- we can take the
15 opportunity to help redefine each of our roles in
16 this. We have the opportunity to do that.

17 The law enforcement officer, for
18 example, in the school doesn't have to be the
19 security guard, but can be in the classroom to
20 help be the role model, to help influence what's
21 happening with the children.

22 That's an opportunity we have in our
23 society today. Because once again, the problems
24 that we are facing are too big for one group. We
25 can't lay it all on the teachers; we can't lay it

1 all on police.

2 And I think it helps to try and get that
3 buy-in by expanding that role of everyone in
4 society.

5 MS. CHIN: On behalf of Jill Tregor, who
6 I'm representing today, and Intergroup
7 Clearinghouse, I wanted to actually request that
8 the Commission take a strong position in favor of
9 data collection.

10 And in whatever is the most appropriate
11 way, to actually oppose Senate Bill 66, which, in
12 our opinion, sends a message that the Governor and
13 the Legislature actually condones racial profiling
14 because of the way in which this compromise bill
15 was reached.

16 So, having said that, I also have a
17 question, I think, especially for the Assistant
18 Chief and Captain Davis, because you can't talk
19 about police accountability, I think, without
20 really talking about the code of silence.

21 And I was, for several years, the senior
22 trial attorney prosecuting administrative
23 complaints in San Francisco against police
24 officers.

25 And what we dealt with time and time

1 again was the code of silence, was the inability
2 of unwillingness of police officers to hold their
3 own accountable.

4 And, yes, it has to come, I completely
5 agree with you, from leadership and from the
6 management. But no diversity training is going to
7 deal with the code of silence, it just doesn't.

8 And I've sat through, you know, learning
9 domain one through learning domain 42, and nothing
10 deals with the code of silence in an effective
11 way.

12 And I know NOBLE has done some work on
13 this, but I just think it would be helpful to put
14 that on the table, to have the two of you comment.

15 I also apologize because I'm going to
16 need to leave fairly soon for an appointment.

17 ASSISTANT CHIEF ARMSTEAD: Well, I have
18 to tell you that the code of silence does exist.
19 You will find a lot of police officers and
20 administrators will deny that it exists.

21 I don't have any hard and steadfast
22 answers in terms of how you break that. I do
23 think that leadership is important. I think that
24 instilling the value system that you want into
25 your organization is important.

1 And you have to understand something,
2 when you call an officer in and you're doing an
3 investigation, and you ask the question. If you
4 don't get an answer, and the officer knows
5 something, then in my opinion that officer is just
6 as guilty as if the officer goes out there and
7 commits a very flagrant violation.

8 So, again, I think that value system
9 that you institute, I think you have to let the
10 officers know that if you, in fact, are not going
11 to come forth and give information when you saw
12 something or were involved in something, you have
13 to let them know you're going to take some very
14 stringent action against those individuals. Then
15 I think that you will find that the code of
16 silence may not be as tightly knit as you think.

17 Again, I don't have any steadfast
18 answers. I think leadership is important. But,
19 again, you have to instill that value system and
20 let officers know what you will and will not
21 condone.

22 And again, if you sanction officers who
23 are quiet and allow certain types of behavior to
24 occur, then they're just as guilty as those
25 officers who, in fact, are involved in the

1 behavior, itself.

2 CHIEF DAVIS: I'd just add one thing
3 that you have to, like with any problem, identify
4 why the problem exists. Why do officers have the
5 code of silence.

6 And it's from their point of view is
7 perceived because it's we versus them on the other
8 side now. So, it's the flip side of that coin.
9 In other words, you don't understand, you're not
10 in my shoes, you don't understand me, and the only
11 ones who can understand what I'm going through --

12 (End tape 3A.)

13 CHIEF DAVIS: -- must protect each other
14 at all costs. I'm not saying that that's -- not
15 saying it's right, but understand why it exists.

16 Once you understand it, then it's fair
17 disciplinary processes and systems that starts
18 instilling trust on the side of officers.

19 It is also a community that balances
20 criticism with praise. You just can't always
21 point the finger at officers and fire shots and
22 say what they're not doing right. You must
23 sometimes come up and actually praise them for
24 what they're doing right, so that they feel that
25 even if I make a mistake I will be held

1 accountable, but you're not going to attack me.

2 So I think that's part of it, also.

3 And another part of it is I agree with
4 Chief Armstead, but I add one more level to it,
5 that silence or the failure to report is not equal
6 to the violation. It should be greater than the
7 original violation you're trying to protect from
8 to begin with.

9 So that the officers know that if I keep
10 silent, if I lie, then I'm going to get in more
11 trouble as if I told the truth, itself. And once
12 I get terminated for such ethical violations, then
13 there has to be an agreement within the industry
14 that no one else will touch him or her. That that
15 is it. You are history in this profession.

16 LIEUTENANT GOVERNOR BUSTAMANTE: Officer Burks.

17 OFFICER BURKS: Yes, I have suggested
18 that police officers have a national (inaudible)
19 where they're protected when they come forward,
20 and that will relieve some of the pressure off
21 coming forth and (inaudible) when they do expose
22 inappropriate conduct by peace officers.

23 ASSISTANT CHIEF ARMSTEAD: And let me
24 just add rather quickly, that's a good point
25 because as you were saying, Captain part of this

1 is the fear of some kind of retaliation. Okay, if
2 you go and tell, then we're not going to cover
3 you. Okay, and when you get out there in a
4 situation where you need cover now, I mean you
5 want somebody to cover your back.

6 And a part of that is that if I tell
7 then am I going to be retaliated against. And
8 what type of, you know, what type of protection is
9 the organization going to give me, let's say, if I
10 step out front and give information.

11 And oftentimes we can't offer that
12 protection, as administrators, because we're not
13 out there with them 24 hours a day.

14 So I think you make a valid point.

15 CHIEF DAVIS: Okay, (inaudible) with the
16 officer. I got to agree with the Commissioner on
17 one thing, and this is business cards across the
18 board. Especially from NOBLE's perspective, my
19 perspective as an executive -- law person
20 executive, is that 99 percent of the officers that
21 we have are outstanding men and women trying to do
22 the right thing.

23 And I think the majority of problems
24 we're talking about at the table today are
25 systemic to the industry. And so they are looking

1 for leadership, they want leadership, and behind
2 closed doors when they're with themselves, they do
3 not want to work with someone who's doing
4 unethical, immoral things. That there's pride in
5 the uniform and badge.

6 And whatever system we come up with,
7 whatever response we can come up with, it has to
8 always recognize that you have people that are
9 doing one of the most complex and tough jobs in
10 this nation. You just cannot make the assumption
11 that we're all bad. And I know you're not, but
12 when we start looking, kind of phrasing everything
13 as complaints or negative, there should always be
14 the understood and the given, then now let's work
15 on the system, let's work on training, let's work
16 on accountability, so that we protect officers and
17 the community, not just the community.

18 LIEUTENANT GOVERNOR BUSTAMANTE: The same way
19 that people who are out there in the community
20 should believe that when approached, they should
21 also be considered initially innocent.

22 CHIEF DAVIS: Most definitely.

23 LIEUTENANT GOVERNOR BUSTAMANTE: The question
24 to
25 both panels that says what is the next step. What
 can we do as community leaders to start the next

1 step? I'm assuming it means to begin the process
2 of getting involved in the issue of racial
3 profiling, or to get their department or their
4 community involved with this issue.

5 Any thoughts on this from any of the
6 panel members or Commissioners on what should a
7 community leader who is out there right now,
8 what's the next step they should do.

9 SPEAKER: Lt. Governor, if I might just
10 add one thing. I've talked to Governor Davis
11 several times. What he has tried to say, and
12 certainly I can appreciate people disagreeing, but
13 I think he would answer that -- I don't want to
14 speak for him -- but as community leaders, be it
15 in the local city, be it in the county or whatever
16 entity we're in, each of us should go up and be
17 sure that the people that are the elected
18 officials of that particular community know your
19 views.

20 I understand perfectly -- because I can
21 assure you that some of the police chiefs that do
22 not want to show the leadership, if the people
23 that hire them make it real clear that that is the
24 only acceptable avenue of action, those folks
25 would do it.

1 So, clearly the people that are elected
2 in city councils, boards of supervisors, we need
3 to insure that they understand how important this
4 is, and that they step up, just like we're asking
5 everyone else to do, and make it real clear to the
6 folks that work within their parameters, that they
7 will accept nothing less than what we are here as
8 a group kind of suggesting that they do.

9 LIEUTENANT GOVERNOR BUSTAMANTE: Sort of
10 piggyback on what was said earlier by Mr. Davis,
11 and what you just said, Commissioner, that those
12 people who are supporting city council candidates
13 and boards of supervisor candidates, that they
14 make sure that they understand this issue, the
15 position on this issue. So that when they hire
16 the police chief or the sheriff, that those folks
17 that are going to be hired, those people who are
18 hiring city managers and CAOs, are going to be
19 people who are understanding of this particular
20 issue.

21 And that's clearly one thing that
22 community leaders can say yes.

23 Michelle.

24 MS. ALEXANDER: (inaudible.) And also
25 to write the state legislators and let them know

1 that we don't want a bill that does not include
2 data collection. That you oppose any effort to
3 (inaudible) that does not include data collection.

4 (Inaudible) -- write your legislators,
5 write (inaudible), make clear that as (inaudible).

6 SPEAKER: If I can just make one -- the
7 next step for me would be, I was talking to Dr.
8 KLITGAARD about this, is recognizing the officers
9 (inaudible) crime reduction is actually start
10 doing some research that is the data or the
11 evidence necessary to show officers that random
12 car stops, that targeting or profiling, besides
13 the fact that it's immoral and illegal, is just
14 not good police work.

15 It's inefficient. It's not netting the
16 gains that we think it is. And that the officers
17 that are truly trying to do the right thing and
18 trying to reduce crime, and we can show them, in
19 fact, there's a lot of books and different
20 studies, that we're just wasting our time. Let
21 alone what we're doing to the community. Then we
22 need to start focusing on other solutions.

23 SPEAKER: In addition to all of those
24 comments, I think that we have a responsibility to
25 help people understand that we, too, have a role.

1 That the citizen has a responsibility and that the
2 police officer or the law enforcement officer also
3 has to be on guard.

4 And if we help people to understand what
5 the dynamics are on both sides, then maybe we can
6 reduce the number of conflictive situations.

7 LIEUTENANT GOVERNOR BUSTAMANTE: There were
8 several questions that came in from the audience
9 dealing with immigration, dealing with the INS and
10 border patrol. And the interaction of law
11 enforcement in dealing with the issue of
12 immigration, especially so close to the border,
13 with all the border crossings that take place near
14 here. The interaction of the police department in
15 having some effect with racial profiling and
16 identifying people for different causes.

17 My guess is that the question is
18 basically asking first, is there any way to stop
19 the immigration officers of doing that, but more
20 importantly, I think to this discussion, is to
21 what extent are you involved with INS or any of
22 those agencies, as a police department.

23 ASSISTANT CHIEF ARMSTEAD: Well, we
24 certainly are involved because we have the
25 southern station that's right down at the border.

1 So we interact with them on a daily basis.

2 We have sort of like concurrent
3 jurisdiction there at the border. And, in fact,
4 it's just the line. If something happens on our
5 side, then we certainly take care of it. If
6 something happens on the other side of the line,
7 then they have to take care of it.

8 And again, we enter that every single
9 day with --

10 LIEUTENANT GOVERNOR BUSTAMANTE: But they're
11 talking about the racial profiling issue, and how
12 that is used to stop people because they happen to
13 look like they're from the other side.

14 ASSISTANT CHIEF ARMSTEAD: Well, I'm
15 sure that that occurs, just as it would in regular
16 traffic stops. I have not had those types of
17 complaints. I have the southern division, that's
18 part of my neighborhood policing area. I have not
19 had personally any of those types of complaints
20 relative to our police officers.

21 So, again, if we get those complaints
22 we're going to investigate them. And from an
23 internal affairs standpoint, just like we would
24 any other complaint regarding discrimination or
25 racism.

1 LIEUTENANT GOVERNOR BUSTAMANTE: So for those
2 five people who wrote questions regarding this
3 particular issue, you know exactly who to talk to.

4 (Laughter.)

5 LIEUTENANT GOVERNOR BUSTAMANTE: Serious, you
6 know, who to talk to. That also goes back to the
7 issue of what can we do as a community leader. If
8 you're from this community and you had those
9 issues or those questions, clearly you have
10 someone here, you have the Chief here who is
11 clearly trying to resolve those issues.

12 Let's see, one last question here,
13 because we're getting close to the point of --
14 unless the Commissioners have any other questions
15 or comments?

16 SPEAKER: One last comment from me.
17 Talking with NHTSA, which is National Highway
18 Traffic Safety Administration, just a little bit
19 of background information.

20 I think right now the number one killer
21 of young African-American males is actually
22 traffic accidents.

23 One of the concerns they have, though,
24 is as we start pushing the message of buckle-up,
25 that, if we do not address this issue of bias-

1 based policing and racial profiling, then the
2 message of buckle-up will become a pretext to stop
3 young minority males other than premised on
4 traffic safety.

5 So, it's, you know, we're losing young
6 men to traffic accidents, but we're afraid to send
7 a message about buckle-up because we're afraid
8 it's going to be misused as a pretext to racial
9 profiling.

10 So I would say there is a sense of
11 urgency, and that the next steps have to start
12 like today.

13 And I just want to applaud the Lt.
14 Governor for forming the Commission and for this
15 day, and to actually be able to throw this out on
16 the table, which I think is outstanding. Thank
17 you, sir.

18 LIEUTENANT GOVERNOR BUSTAMANTE: Thank you.
19 Commissioner, a question here says that CHP has
20 not hired any African-American females in the past
21 six years.

22 COMMISSIONER HELMICK: Well, as I
23 indicated earlier, Governor, that's simply not
24 accurate. And I'm not -- it's simply not
25 accurate, so -- we just had a graduation in which

1 I happened to pin the badges on, and there were
2 African-American females there.

3 So I don't -- I'd be happy in each
4 specific allegation of that nature, to sit down
5 with the individual. Matter of fact, we've got
6 two of our Chiefs and one of our Lieutenants --
7 raise your hands, guys -- back there.

8 Yeah, our new Captain in Oakland is a
9 female black. I don't think the purpose of this
10 is to try to get into some of these specifics.
11 I'll be happy to address any one of them, but I'm
12 not going to take the time to debate something
13 that's simply not accurate.

14 LIEUTENANT GOVERNOR BUSTAMANTE: Okay. And it
15 indicates here, one last question, why submit the
16 data -- my guess is what it's trying to say here
17 is that the data that the CHP is gathering, will
18 it be reviewed by outside agencies, or only by the
19 CHP?

20 COMMISSIONER HELMICK: No, it's going to
21 be reviewed by us, and then submitted. It will be
22 given to anyone that wants a copy of it. So
23 anyone sitting here can review it and digest it
24 and consider it.

25 We have a group of research analysts,

1 and we're the ones looking at it; it's for my
2 purpose to try to learn from it. But everything
3 that we have is going to be a public record.
4 Anyone in the world that wants a copy certainly
5 can have a copy of it.

6 LIEUTENANT GOVERNOR BUSTAMANTE: All right.
Did

7 you have a comment? Go ahead.

8 SPEAKER: Lt. Governor, I have a
9 question for you.

10 LIEUTENANT GOVERNOR BUSTAMANTE: Sure.

11 SPEAKER: And perhaps the rest of the
12 Committee. We had a (inaudible).

13 LIEUTENANT GOVERNOR BUSTAMANTE: I'm sorry, you
14 said?

15 SPEAKER: (Inaudible.)

16 LIEUTENANT GOVERNOR BUSTAMANTE: Okay. Do we
17 want to start over here with Carol, would you like
18 to -- do you want -- if you don't have a comment,
19 just pass, just wave me off.

20 COMMISSIONER HAYASHINO: I'd like to make a
comment.

21 First of all I think locally and statewide, I'd
22 like to find ways to promote community policing.
23 I think that's very very important. That's number
24 one.

25 Number two, in addition to promoting

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1 diversity training, I think we need to find ways
2 to promote expanded recruitment. I think that's
3 critical.

4 We have spent a lot of time talking
5 about discussing training and what is good
6 diversity training, I think -- and that's very
7 important -- but that's only part of the solution.
8 I think we need to find concrete ways to diversify
9 our law enforcement officers, the rank-and-file,
10 as well as the leadership.

11 Thirdly is I'd like to find a way for
12 this Commission to be active in amending
13 legislation so it does include data collection.

14 LIEUTENANT GOVERNOR BUSTAMANTE: Great.
15 (Inaudible).

16 SPEAKER: I think that if we're going
17 to, since we spent the day listening to this, and
18 now I'm informed about the issues, I would
19 certainly want to come up with some kind of a
20 document or statement that we, as a Commission,
21 could vote to recommend to the Legislature.

22 Otherwise I think we would not be
23 fulfilling any kind of mandate. So, I'd like to
24 see, you know, the staff or a small group of us
25 come up with something that we could come up with

1 a vote on, and endorse.

2 Otherwise, I think we're not really
3 fulfilling what you wanted us to do.

4 LIEUTENANT GOVERNOR BUSTAMANTE: How about if
5 we, in order to be able to do that, how about if
6 we take each of the thoughts of the Commissioners
7 and have staff work with Mr. KLITGAARD.

8 We can put together a brief statement
9 and perhaps forward it to the members to get their
10 comments. And then turn that around very very
11 quickly so that we have something done by next
12 week? Would that work for the members? Okay?

13 Do you have any thoughts about, besides
14 that issue?

15 SPEAKER: Yes, I would just say
16 everything that she said I agree with.

17 (Laughter.)

18 LIEUTENANT GOVERNOR BUSTAMANTE: Got it.

19 COMMISSIONER ELGENAIDI: -- what I was going to
20 say.

21 Earlier when we had talked about this in a smaller
22 group I was undecided about whether to support
23 Murray's bill or not because my reason, as I had a
24 conversation with Dr. Kayden, Executive
25 Director of the Commission, I didn't have enough
information. I think I do now.

1 And I think we should amend Murray's
2 bill and to try to mandate data collection.

3 LIEUTENANT GOVERNOR BUSTAMANTE: Well, we can't
4 do that, but we can recommend it.

5 SPEAKER: We can recommend it.

6 LIEUTENANT GOVERNOR BUSTAMANTE: Yes.

7 SPEAKER: I'd like to emphasize one
8 thing that you talked about in the very first
9 meeting, that is try to effect local, as well as
10 statewide, initiatives.

11 And I like very much the idea of putting
12 together even a summary of what we've heard today;
13 send it to local communities and to community
14 groups in those communities, with our strong
15 recommendations, as an incentive to them to take a
16 look at this issue, see if they can do something
17 locally.

18 LIEUTENANT GOVERNOR BUSTAMANTE: Okay, thank
19 you. Any panelists want to make their comment
20 about what we could do? Any thoughts? No? No?
21 No? Okay.

22 DR. KAYDENT: Well, I'm taking a lot of
23 notes, you'll hear from me.

24 My sense is I think the biggest issue is
25 how are we going to change the culture of the

1 police department. And one thing I've been
2 thinking of, listening to this, there was a book
3 written about 30 years ago by James Q. Wilson
4 (phonetic) called Varieties of Police Behavior,
5 where he talked about police departments serving
6 different kinds of communities.

7 Suburban police tended to see their role
8 as protecting citizens from -- getting the cats
9 out of the trees and taking the kids home. And
10 big city police tended to see themselves as more
11 of an army that's protected the establishment.

12 I think one of the things about
13 diversity that we are seeing is that what, in the
14 past, was seen as the established versus the dis-
15 established, is no longer viable. And I think it
16 really goes to the core of how we change the
17 internal culture of the police to see themselves
18 as something else.

19 So that it struck me, for instance if
20 the LAPD is so hostile to the notion of external
21 oversight, or yesterday, The Los Angeles Times
22 published a story that the police chief has
23 decided to accede to the demands of many of the
24 city council and of the neighborhood groups for
25 senior lead officers to go back, to re-create

1 senior lead officers in the communities. But it
2 was the core of the community policing.

3 Instead of doing that he's willing to
4 give them cell phones, which was not sufficient to
5 the communities, because they'll just be calling,
6 you know, calling the same -- that's not like
7 having someone on the street.

8 I think we need to sort of get our big
9 city police, and many of the chiefs are here and I
10 really am impressed and appreciate what they're
11 saying, but to get them to think about the
12 policing as a whole other function.

13 SPEAKER: Yes, well, you know, I really
14 would love to believe that 99 percent of all
15 police officers are wonderful and they all want to
16 do a great job and da-da-ta-da, and this is a very
17 small thing that we're talking about, some traffic
18 stops and this and that and the other thing.

19 And I would love to believe that, and in
20 these kind of discussions that I've been a party
21 to before, it always comes back to that kind of
22 thing.

23 But, as an American, when I see what's
24 going on in Rampart, we're not now just talking
25 about people being stopped because of the color of

1 their skin, but we're now talking about people
2 being sent to prison who are completely innocent
3 because of the color of their skin, it's
4 horrifying to me. And I think we should all be
5 horrified by that.

6 And I believe that the racial profiling
7 that we're talking about leads to this exact kind
8 of thing. Where now we're building prisons with
9 black and brown young men, which is a logical
10 extension of this. Who are being incarcerated
11 simply because they're black and brown young men.

12 And the society, the police departments
13 deem this as being a crime where they feel society
14 needs to be protected from them. And I find that
15 horrifying. It's scary. I don't want my kids to
16 grow up in a society like that.

17 I don't like the further consequences of
18 that. So I think that the situation that we're
19 talking about here, and as I'm listening to this
20 today, is very deep.

21 The code of silence, you know how deep
22 that is. We're talking about the officers, the
23 older officers who train the younger officers in
24 this kind of behavior, that they have been trained
25 in their official training not to do, but the

1 older officers teach them to do it, and it's what
2 they do in the field.

3 And so this is really deep. And I'm
4 frightened by it, and I think that the measures, I
5 mean I don't want to -- I think we have to be
6 careful of just putting a band-aid on cancer
7 theory that somehow this is going to cover it up.

8 I think that the police departments need
9 to be accountable for what they do. I think that
10 data needs to be gathered, absolutely. And I also
11 think -- and I'm not a politician or somebody who
12 understands how these systems get reorganized, but
13 I think that the police systems do need to be
14 reorganized because they were created and grew in
15 a different society that was meant to do something
16 different than what our society is involved with.

17 So I think that the systemic concept of
18 the entire organization of police departments
19 needs to be looked at. And I think that the
20 concept of neighborhood policing, that is
21 instituted that people from their own
22 neighborhoods are policing their own, needs to
23 somehow be put into this system.

24 Otherwise, it's going to continue to
25 result in things like what we saw in Rampart,

1 which I think is completely unacceptable to us, as
2 a state, and as a nation.

3 Thank you.

4 LIEUTENANT GOVERNOR BUSTAMANTE: Go ahead.

5 SPEAKER: First of all, Lt. Governor, we
6 thank you for allowing us to come together today
7 and discuss this issue. And I am in complete
8 agreement with what was stated across the table,
9 that we must analyze the information that we
10 gathered here today, and come forward with a
11 positive statement in the sense of direction for
12 everyone to adhere to.

13 A question that was posed earlier, what
14 can we do, as community leaders. We, as community
15 leaders, owe it to our children and the nation and
16 the citizens of this state, okay, to get actively
17 involved, community policing works.

18 And the only way community policing
19 works is when citizens stand up and get involved
20 in your community. When I say get involved, sit
21 on the advisory boards, get involved in the clergy
22 councils, get involved in the chaplaincy programs
23 within the police departments. And have a voice
24 in your community.

25 Because if we do not stand up and take

1 control of what is going on in our community, then
2 we might as well all go home, bury our heads in
3 the sand and wait for tomorrow.

4 Thank you.

5 LIEUTENANT GOVERNOR BUSTAMANTE: Thank you.

6 SPEAKER: Amen, Reverend. And I just
7 want to add the employment recruitment of
8 diversity of people that should move up the ranks
9 in good manners, and the other is yes, I support
10 the issue of that continuing education when the
11 police finish the training, there should be some
12 other follow-up continuing education, special
13 activities, because indeed, our communities are
14 changing very very fast.

15 SPEAKER: I, too, also concur with the
16 comments made across the table. I'd also like to
17 encourage the law enforcement agencies across the
18 state to partner and outreach with the newer
19 community groups, like the Koreans and the
20 Southeast Asians and Russians.

21 They come from governments where they
22 fear their governments and it takes just a little
23 bit more to partner and build trust and
24 understanding with those community groups.

25 And I, too, support the inclusion of

1 data collection in the current legislation.

2 SPEAKER: Thank you. I hope that maybe
3 all police departments can maybe hire more women.
4 I think they would make it a little bit better
5 police department.

6 I think also that we -- every time I
7 look at like LAPD I see, you know, Marines just
8 getting out, and they're all 6'2", and they all
9 have great big chests, and you know, it's like
10 they all want to beat somebody up.

11 Why can't we have some people that may
12 be in their 40s, that aren't, you know, have this
13 idea that they got to go beat somebody up, and
14 just be normal police. You know, (inaudible).

15 I also want to say, I want to put my
16 word in for having data collection, too.

17 LIEUTENANT GOVERNOR BUSTAMANTE: Thank you.
And

18 just to respond directly, I think there's probably
19 several things that I would recommend. There were
20 several issues that were raised today, such as the
21 nonuniform practices that are taught. They vary
22 differently from one place to the other.

23 And trying to identify that huge
24 disparity that takes place between one department
25 and another, might be something we should clearly

1 take a look at.

2 Also, those areas where clustered
3 demographics take place, within police
4 departments. That there should be some
5 acknowledgement that, in fact, this practice takes
6 place for good or for bad, by design or by
7 default. And that we should try to find a way to
8 be able to go in and to try to identify the causes
9 for those problems.

10 Obviously there are many officers. It
11 doesn't make any difference what color they are.
12 They believe that while they're on the street it's
13 a matter of survival for them. They have
14 families, too. They have things that they have to
15 deal with. And they clearly are in a survival
16 mode.

17 Well, when you're in a survival mode,
18 like when you're in the military, there are going
19 to be casualties that are just assumed that are
20 going to be okay as long as you survive.

21 And I think that that clearly is not the
22 role of a police officer. That clearly is a
23 different mentality, and only through training are
24 you able to be able to deal with that particular
25 mentality.

1 The other thing is that the -- and it
2 was raised earlier, is that the community colleges
3 are very very involved. In fact, 50 percent of
4 the training, according to Chief Creason,
5 indicated that 50 percent of the community
6 colleges train law enforcement officers.

7 And it would be, I think, a process that
8 we could get involved with, to do with the
9 community college trustees, as well as through
10 other groups, to be able to review the kind of
11 training that's taking place through there.

12 I'm assuming that they go and use the
13 POST training curriculum. And if the current
14 training is being reviewed right now, as to the
15 field versus academic training activity, and what
16 they're doing in those police departments, and
17 trying to figure out the differences between field
18 and academic, I think clearly those things can be
19 included in the community college system.
20 Something that the State of California clearly has
21 an effect on.

22 The other thing is that clearly all the
23 members of POST are appointees, is that correct?
24 They're all appointees. They're appointed by
25 somebody. And if there are issues that are

1 involved with the training that should be dealt
2 with, then those who appoint should have some
3 impact on those appointees to make sure that the
4 kind of training that's involved will be done in a
5 way.

6 Also, my understanding is that the
7 Attorney General is a member of that, and so maybe
8 one of the things that we should do is that we
9 should contact the Attorney General and see how he
10 might be able to intersect with the activities
11 that we are dealing with.

12 There were several other issues that
13 came up. What I'll do is I'll put them in some
14 kind of a list. Add them to the staff document
15 that will be prepared.

16 We'll try to condense it to about a page
17 or a page and a half. Fax it to all the members
18 after review this week, and try to make sure that
19 we get this thing sort of wrapped up by next week.
20 Okay?

21 We have two hands, and then we're going
22 to -- three hands, and then we are going to close
23 this, as we are nearing the time of closure.

24 Yes, sir, in the front.

25 SPEAKER: I have a question (inaudible)

1 So let's not just put this in three or four hands,
2 let's put it back in the public's hands
3 (inaudible). That's from the President to the
4 lowest person (inaudible). That's what should be
5 done. (Inaudible.)

6 LIEUTENANT GOVERNOR BUSTAMANTE: Thank you,
7 Colonel Smith.

8 SPEAKER: Lt. Governor, I (inaudible)
9 and I'm a native San Diegan. I want to request
10 that you (inaudible) racial profiling, of course,
11 is not limited to law enforcement, except that
12 people in law enforcement have badges and weapons.

13 And that racial profiling,
14 unfortunately, a lot of it is the media has a lot
15 to do with that. And a lot of times the images
16 that they present of us, people of color, are not
17 positive images. So the police force and law
18 enforcement people that have weapons and badges
19 and so forth, and have been screened, are only a
20 microcosm of society at large in this country.

21 And I think that there's something
22 besides driving while black or brown, and that's
23 being in the media while black or brown. A lot of
24 images are portrayed of our communities of color,
25 I'm not excluding Asians or Native Americans, I

1 mean similar situations, are not positive images.

2 And I believe it goes back to what
3 Officer Burks said, that people at the top that
4 (inaudible) for example, a lot of times they're
5 not of color. So a lot of times the issues that
6 are portrayed about our communities are not
7 positive issues.

8 Well, we know that our communities all
9 are communities, whether red, white or blue, do
10 positive things, but what's portrayed in the media
11 a lot of times is the negative things that our
12 communities of color do, and unfortunately taint
13 the way the law enforcement and government a lot
14 of times looks at these issues.

15 And I think that's a very important
16 issue as far as what can the community do. I
17 think it's important that the community be brave
18 enough, like some people have in their community,
19 such as Officer Burks and others here, and speak
20 out about the injustices of racial profiling; the
21 fact that we are all -- should all be treated
22 equal.

23 And that's why I was very aggressive in
24 writing letters, I wrote an article called "His
25 name is (inaudible)", where I talk about the

1 undocumented workers and how they're subjected to
2 this type of treatment all the time. And most of
3 the undocumented immigrants to this country are
4 not Latino. Most people on welfare are not of
5 color.

6 And so but the images that are portrayed
7 are not the accurate ones. And I think that we
8 need to be brave enough to write letters, write
9 articles, and just speak out.

10 What made this country great is
11 diversity and (inaudible).

12 LIEUTENANT GOVERNOR BUSTAMANTE: Thank you, and
13 just so you know, the Commission, in one of its
14 first meetings, held a Commission meeting at the
15 Wiesenthal Center to talk specifically about the
16 diversity issue in the media. Especially on the
17 tv stations and in the movies.

18 And we clearly have been joined with the
19 NAACP, with the Native Americans, the Amerasian
20 groups, in order to be able to try to deal with
21 that whole issue.

22 And we've met with the CEOs and
23 presidents of ABC, CBS, NBC, many many others, in
24 an attempt to try to sensitize the group. There
25 has been a lot of activity. So far, not a whole

1 lot of production.

2 In fact, there is one of the things that
3 we thought might come -- I'll make sure and get to
4 you, you don't have to -- I don't want your arm to
5 get tired -- was that one of the local, actually
6 it was CBS, who put together some money for a
7 pilot for a wonderful program that was prepared.

8 They unfortunately didn't pick up the
9 pilot. It was a pilot that was about a Latino
10 family. I especially liked it because the father
11 was a barber, just like mine. But it was done
12 with such grace and it was just a beautifully done
13 project. And if you don't believe me, just ask
14 Gregory Nava, because he's the one who did it.

15 It's a beautiful production and we are
16 now looking to try to put that into one of the
17 major, so that not only will "City of Angels" be
18 on, but hopefully this wonderful program, an
19 American family, will also be on airwaves which
20 produces really positive activity, blending some
21 of the culture, but also clearly positive images
22 of what Latinos are and can be.

23 Ma'am?

24 SPEAKER: Yeah, my name is (inaudible).

25 I just wanted to make a simple request that any

1 document that (inaudible).

2 LIEUTENANT GOVERNOR BUSTAMANTE: My two staff
3 right here in the front, right here, all you have
4 to do is get a card from them. Communicate with
5 them, and we'll make sure and send you
6 information. Okay?

7 Again, thank you to all the
8 Commissioners who have been here patiently,
9 delving into this issue. It's amazing, the two
10 panels were great. Thank all the audience members
11 who have come, and all the media exposure that
12 we're hopefully going to put out on this
13 particular issue.

14 It's a very very important subject as
15 many of us clearly understand and know. And we
16 look forward to doing something relatively quick
17 about trying to impact the planned public policy
18 that is taking place in the state.

19 Again, thank you all for coming.

20 (Applause.)

21 (Whereupon, the proceedings were
22 adjourned.)

23 --o0o--

24

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I certify that the foregoing is a
correct transcript from the electronic sound
recording of the proceedings in the above-entitled
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June 6, 2000

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